



City of Marathon Planning Commission
Monday April 19, 2021
9805 Overseas Hwy
City Hall Council Chambers
5:30 PM

1. **Call To Order**
 2. **Pledge Of Allegiance**
 3. **Roll Call**
 4. **Minutes**
 5. **Items For Public Hearing**
 6. **Adjournment**
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5. Items For Public Hearing

Item 1: Consideration Of A Request For A Development Agreement, For Island Homes Of The Keys Inc, Pursuant To Chapter 102, Article 8 Of The City Of Marathon Land Development Regulations (“The Code”) Entitled “Development Agreement” For The Development Of A Single Family Home; Vacant Land; Which Is Legally Described As, Section 32, Township 65, Range 33, Government Lot 1 And Section 05, Township 66, Range 33, Part Of Government Lot 4, Formerly Known As Phase V (The Island) Seawatch At Marathon A Condominium, Marathon, Monroe County, Florida; Having Real Estate Number 00104135-000000, Nearest Mile Marker 53.

Item 2. An Ordinance Of The City Of Marathon, Florida; Amending Section 104.62, “Mobile Vendor Food Units”; Providing For The Repeal Of All Code Provisions And Ordinances Inconsistent With This Ordinance; Providing For Severability; Providing For Transmittal To The State Department Of Economic Opportunity; Providing For Inclusion In The Code; And Providing For An Effective Date.

Item 3. Consideration Of A Request A Conditional Use Permit And A Development Agreement, For Insite Marathon Key LLC, Pursuant To Chapter 102, Articles 8 And 13 Of The City Of Marathon Land Development Regulations (“The Code”) Entitled “Development Agreement” And “Conditional Use Permits” Respectively For The Redevelopment And Expansion Of An Existing Hotel; Located At 4590 Overseas Highway; Which Is Legally Described As Part Of Government Lot 2 And Adjacent Bay Bottom And Adjacent Part Of Us1 State Road 5 And Bay Bottom Adjacent To Government Lot 2, Section 10, Township 66, Range 32, Key Vaccas, Marathon, Monroe County, Florida; Having Real Estate Numbers 00103150-000000, Nearest Mile Marker 50.

Item 4. An Ordinance Of The City Of Marathon, Florida; Amending Chapter 107 Article 1 Entitled Building Permit Allocation System (BPAS); Providing Criteria For Transient Unit Conversion Of Market Rate Dwelling Units And To Establish Limitations; Providing For Severability; Providing For

The Repeal Of All Ordinances Or Parts Of Ordinances Found To Be In Conflict; And Providing For Inclusion In The Code; And Providing For An Effective Date.

Item 5. An Ordinance Of The City Of Marathon, Florida Amending The Future Land Use Map (FLUM) From Conservation (C) To Mixed Use-Commercial (Mu-C) For The Property Described As Block 1 Lots 4-19, Block 2 Lots 11-15, Section 35, Township 65, Range 33, Crawl Key, Marathon, Monroe County, Florida; Having Real Estate Numbers 00358280-000000, 00358290-000000, 00358300-000000, 00358310-000000, 00358320-000000, 00358330-000000, 00358340-000000, 00358350-000000, 00358360-000000, 00358370-000000, 00358380-000000, 00358390-000000, 00358400-000000, 00358410-000000, 00358420-000000, 00358430-000000, 00358570-000000, 00358580-000000, 00358590-000000, 00358600-000000, And 00358610-000000; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The State Department Of Economic Opportunity; And Providing For An Effective Date Upon The Approval Of This Ordinance By The State Department Of Economic Opportunity.

Item 6. An Ordinance Of The City Of Marathon, Florida Amending The Zoning Designation From Conservation Native Area (C-Na) To Mixed Use (Mu) For The Property Described As Block 1 Lots 4-19, Block 2 Lots 11-15, Section 35, Township 65, Range 33, Crawl Key, Marathon, Monroe County, Florida; Having Real Estate Numbers 00358280-000000, 00358290-000000, 00358300-000000, 00358310-000000, 00358320-000000, 00358330-000000, 00358340-000000, 00358350-000000, 00358360-000000, 00358370-000000, 00358380-000000, 00358390-000000, 00358400-000000, 00358410-000000, 00358420-000000, 00358430-000000, 00358570-000000, 00358580-000000, 00358590-000000, 00358600-000000, And 00358610-000000; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The State Department Of Economic Opportunity; And Providing For An Effective Date Upon The Approval Of This Ordinance By The State Department Of Economic Opportunity.

Item 7: Consideration Of A Request For An Annulment Of A Plat, For Floridian Holdings, LLC, Pursuant To Chapter 102, Article 10 Of The City Of Marathon Land Development Regulations (“The Code”) Entitled “Subdivision Of Land/Plats And Replats” For The Abandonment Of A Portion Of Ecstasy Subdivision West Of Banana Boulevard Excluding Block 3 Lot 4 And Adjacent Waterway And Part Of Vacated Ocean Drive, And The Abandonment Of The Amended Valhalla Island Plat; Located At And Around 56243 Ocean Drive; Which Is Legally Described As Block 1 Lots 1-22, Block 2 Lots 1-20, Lot A, And Waterway Number 1, Block 3 Lots 1-3 And Lots 5-19, Lot A, And Part Of Waterway Number 2, Block 4 Lots 1-4, Block 5 Lots 1-7, Lot A, And Lot B Of Ecstasy Subdivision, As Well As The Entirety Of Valhalla Island Amended Plat Of Ecstasy Subdivision Block A, Bay Bottom Adjacent To Tract A, And Previously Abandoned Right Of Way Of Ocean Drive, Section 35, Township 65, Range 33, Crawl Key, Marathon, Monroe County, Florida; Having Real Estate Numbers 00099750-000000, 00099760-000000, 00099760-000100, 00099760-000200, 00099760-000300, 00099760-000400, 00099760-000500, 00358250-000000, 00358260-000000, 00358270-000000, 00358280-000000, 00358290-000000, 00358300-000000, 00358310-000000, 00358320-000000, 00358330-000000, 00358340-000000, 00358350-000000, 00358360-000000, 00358370-000000, 00358380-000000, 00358390-000000, 00358400-000000, 00358410-000000, 00358420-000000, 00358430-000000, 00358440-000000, 00358450-000000, 00358460-000000, 00358470-000000, 00358480-000000, 00358490-000000, 00358500-000000, 00358510-000000, 00358520-000000, 00358530-000000, 00358540-000000, 00358550-000000, 00358560-000000,

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00360220-005300, 00360220-005400, 00360220-005500, 00360220-005600, 00360220-005700,
00360220-005800, 00360220-005900, And 00358670-000000, Nearest Mile Marker 57.

Item 8: Consideration Of A Request A Conditional Use Permit And A Development Agreement, For Floridian Holdings, LLC, Pursuant To Chapter 102, Articles 8 And 13 Of The City Of Marathon Land Development Regulations (“The Code”) Entitled “Development Agreement” And “Conditional Use Permits” Respectively For The Development Of A Hotel; Located At And Around 56243 Ocean Drive; Which Is Legally Described As Block 1 Lots 1-22, Block 2 Lots 1-20, Lot A, And Waterway Number 1, Block 3 Lots 1-3 And Lots 5-19, Lot A, And Part Of Waterway Number 2, Block 4 Lots 1-4, Block 5 Lots 1-7, Lot A, And Lot B Of Ecstasy Subdivision, As Well As The Entirety Of Valhalla Island Amended Plat Of Ecstasy Subdivision Block A, Bay Bottom Adjacent To Tract A, And Previously Abandoned Right Of Way Of Ocean Drive, Section 35, Township 65, Range 33, Crawl Key, Marathon, Monroe County, Florida; Having Real Estate Numbers 00099750-000000, 00099760-000000, 00099760-000100, 00099760-000200, 00099760-000300, 00099760-000400, 00099760-000500, 00358250-000000, 00358260-000000, 00358270-000000, 00358280-000000, 00358290-000000, 00358300-000000, 00358310-000000, 00358320-000000, 00358330-000000, 00358340-000000, 00358350-000000, 00358360-000000, 00358370-000000, 00358380-000000, 00358390-000000, 00358400-000000, 00358410-000000, 00358420-000000, 00358430-000000, 00358440-000000, 00358450-000000, 00358460-000000, 00358470-000000, 00358480-000000, 00358490-000000, 00358500-000000, 00358510-000000, 00358520-000000, 00358530-000000, 00358540-000000, 00358550-000000, 00358560-000000, 00358570-000000, 00358580-000000, 00358590-000000, 00358600-000000, 00358610-000000, 00358620-000000, 00358630-000000, 00358640-000000, 00358650-000000, 00358660-000000, 00358661-000000, 00358710-000000, 00358720-000000, 00358730-000000, 00358740-000000, 00358750-000000, 00358760-000000, 00358770-000000, 00358780-000000, 00358790-000000, 00358800-000000, 00358810-000000, 00358820-000000, 00358830-000000, 00358840-000000, 00358850-000000, 00358851-000000, 00358860-000000, 00358870-000000, 00358880-000000, 00358890-000000, 00358900-000000, 00358910-000000, 00358910-000100, 00358930-000000, 00358940-000000, 00358950-000000, 00358960-000000, 00358970-000000, 00358980-000000, 00358990-000000, 00358990-000200, 00359000-000000, 00359601-000000, 00359602-000000, 00359602-000100, 00360220-000200, 00360220-000400, 00360220-000500, 00360220-000700, 00360220-000800, 00360220-000900, 00360220-001000, 00360220-001100, 00360220-001200, 00360220-004400, 00360220-004500, 00360220-004600, 00360220-004700, 00360220-004800, 00360220-004900, 00360220-005000, 00360220-005200, 00360220-005300, 00360220-005400, 00360220-005500, 00360220-005600,

00360220-005700, 00360220-005800, 00360220-005900, And 00358670-000000, Nearest Mile Marker 57.



**City of Marathon Planning Commission
Monday March 15, 2021
9805 Overseas Hwy
City Hall Council Chambers**

MINUTES

Chairman Lynn Landry called the meeting of the Planning Commission to order on Monday March 15, 2021 at 5:32 pm.

In attendance: Attorney Steve Williams, Planning Director Brian Shea, Admin Assistant Lorie Mullins, City Manager George Garrett.

The Pledge of Allegiance was recited.

The roll was called. Mike Cinque-present; Matt Sexton-present; Susan Klock-present; Mike Leonard-present; Lynn Landry-present.

Landry asked for approval of the last meeting minutes and the January meeting minutes.

All in favor 5. All opposed 0. Both draft minutes were approved 5-0.

Item 1 was read into the record. An Ordinance Of The City Of Marathon, Florida Approving The City's "10-Year Water Supply Facilities Work Plan" As Required By The State Department Of Economic Opportunity Under Chapter 163, Part II, F. S.; To Include Updated Water Demand Projections, Identify Alternative And Traditional Water Supply Projects, And Describe Conservation And Reuse Activities Needed To Meet The Projected Future Demands. Planning Tools Are Available On The District's Website For Your Use And District Staff Are Available To Provide Technical Assistance To Update The Work Plan, Including Reviewing Draft Work Plans Prior To Formal Plan Amendment Submittal; Providing For Severability; Providing For Repeal Of Conflicting Provisions; Providing For Transmittal Of This Ordinance To The State Department Of Economic Opportunity; And Providing For An Effective Date Upon The Approval Of This Ordinance By The State Department Of Economic Opportunity.

Shea presented the item. This Ordinance is required by the State and is modeled after the same plan that the Aqueduct Authority and Monroe County have in place for their jurisdictions.

Landry asked about the population count mentioned in the 2011 plan. Shea explained that the 2011 plan was based on the 2010 Census, which projected the population count would be drastically reduce, which it has, so this 2021 plan is on schedule.

Leonard moved to approve. Klock seconded. The roll was called. The motion was approved 5-0.

Motion to adjourn.

Landry adjourned the meeting at 5:37 p.m.

ATTEST:

Lynn Landry - Planning Commission Chairman

ATTEST:

Lorie Mullins-Administrative Assistant
City of Marathon Planning Department

DRAFT

Pursuant to Section 286.0105, Florida Statutes, if a person decides to appeal any decision made by the Planning Commission with respect to any matter considered at such hearing or meeting, one will need a record of the proceedings and for such purpose that person may need to ensure that a verbatim record of the proceedings is made; such record includes the testimony and evidence upon which the appeal is to be based.

ADA Assistance: Anyone needing special assistance at the Planning Commission Meeting due to disability should contact the City of Marathon at (305-) 743-0033 at least two days prior thereto.

(Please note that one or more Marathon City Council members may participate in the meeting.)

PLANNING COMMISSION AGENDA STATEMENT



Meeting Date: April 19, 2021

From: Brian Shea, Planning Director

Agenda Item: Consideration Of A Request For A Development Agreement, For Island Homes Of The Keys Inc, Pursuant To Chapter 102, Article 8 Of The City Of Marathon Land Development Regulations (“The Code”) Entitled “Development Agreement” For The Development Of A Single Family Home; Vacant Land; Which Is Legally Described As, Section 32, Township 65, Range 33, Government Lot 1 And Section 05, Township 66, Range 33, Part Of Government Lot 4, Formerly Known As Phase V (The Island) Seawatch At Marathon A Condominium, Marathon, Monroe County, Florida; Having Real Estate Number 00104135-000000, Nearest Mile Marker 53.

APPLICANT/OWNER: Island Homes of the Keys Inc.

AGENT: Bart Smith, Smith Hawks

LOCATION: Vacant land, having Real Estate Number 00104135-000000.

REQUEST: Enter into a Development Agreement with the City of Marathon for redevelopment of the subject property.

FUTURE LAND USE MAP DESIGNATION: Conservation (C)

ZONING MAP DESIGNATION: Conservation Native Area (C-NA)

LOT SIZE: Approximately 13.3 acres

SURROUNDING ZONING AND USES:

	<u>Zoning</u>	<u>Use</u>
North	N/A	Gulf of Mexico
East	N/A	Gulf of Mexico
South	Residential High (RH)	Seawatch Condos
West	Residential Low (RL) and Residential High (RH)	Single Family residences and Indigo Reef

EXISTING CONDITIONS:

Currently, the property consists of the following:

- A vacant island with docking facilities.

PROPOSED DEVELOPMENT

The proposed redevelopment of this property will consist of the following:

- 1. Develop the property with a single-family residence.

BACKGROUND:

This is an application for a development agreement to develop a single-family residence on Seawatch Island. Previously the Department of Community Affairs (DCA), now the Department of Economic Opportunity (DEO) had entered into an agreement for the development of the island. A copy of which is attached as Exhibit A.

The City subsequently incorporated and changed the FLUM and Zoning designation of the property again. The applicant is now proposing a development agreement for the development of the property.

ANALYSIS:

Comprehensive Plan

The proposed development should meet the following criteria as set forth in the Comprehensive Plan. These elements are consistent with items 3 and 4 of the DCA agreement.

Policy 4-1.5.1 Establish Incentives to Conserve Sensitive Habitat

The City shall continue to maintain Land Development Regulations providing for protection of native vegetative communities and land clearing which mandate that new development preserve, at a minimum, all undisturbed wetlands, and ninety percent (90%) of high-quality tropical hammocks on the parcel being developed. These regulations shall further provide for the preservation and transplantation of plant species that have been designated as endangered, threatened or of special concern by a State or Federal agency. These regulations shall also apply to the City’s list of regionally important plant species. An incentive program shall be provided for the conservation of upland areas containing recognized sensitive plant communities and species.

Policy 4-1.5.3 Provide for Open Space

Upon the effective date of the Plan, the City shall provide for open space as a part of the requirements for all development and redevelopment. Open space areas shall be designated and treated in such a manner as to maintain the integrity whether the primary purpose is to serve as natural vegetative or wildlife habitat, or as cultivated landscaped space. No land shall be developed, used, or occupied such that the amount of open space on the parcel proposed for development is less than the open space ratios (OSR) listed below in Table 4-1, for each ecological community.

TABLE 4-1 OPEN SPACE RATIOS	
Ecological Community	OSR
Submerged Lands (Open Water)	1.00
Mangrove and Freshwater Wetlands	
Undisturbed	1.00

**TABLE 4-1
OPEN SPACE RATIOS**

Ecological Community	OSR
Disturbed	.90
Salt Marsh and Buttonwood Wetlands	
Undisturbed	1.00
Disturbed	.60
Beach Berm Complex	
Undisturbed	.95
Disturbed	.40
Offshore Island	.95
Hammocks	
Palm Hammock	.90
Cacti Hammock	.90
High Quality Hammock	.90
Moderate Quality Hammock	.70
Low Quality Hammock	.50
Disturbed	
Disturbed with Hammock	.40
Disturbed Saltmarsh Buttonwood Association	.30
Disturbed with exotics	.20
Scarified	.20

Policy 4-1.5.5 *Limit Clearing of Native Vegetation (Hardwood Hammock)*

The clearing of high-quality hammock is hereby limited to a 7,500 square foot footprint for the principal structure. Additionally, one driveway no wider than 18 feet per parcel is allowed in high quality hammock that is exempt from clearing requirements; however, in no case shall clearing exceed 10 percent of the entire site. The clearing of moderate quality hammock is hereby limited to 7,500 square feet or 30 percent, whichever is less. For all categories of hammock, a minimum clearing area of 3,000 square feet shall be allowed to provide reasonable use of property. The clearing of native vegetation is hereby limited to the immediate development area. The immediate development area shall include the area of approved clearing shown on the approved site plan. The immediate development area shall be fenced throughout the duration of construction. During construction, there shall be no disturbances of the ground surface and vegetation within required open space areas.

Policy 4-1.5.8 *Require Clustering*

Upon the effective date of the Plan, the City shall require development to minimize impacts on sensitive natural areas to the maximum extent feasible through the following clustering provisions. In the event development must be permitted, adverse impacts shall be mitigated by clustering.

Clustering requirements shall be as follows:

- a. Development which may impact sensitive natural resources may be required to utilize reduced construction ‘footprints’, modified construction techniques, innovative construction techniques, land use and development techniques which minimize negative environmental impacts or results, and the like;
- b. When a parcel proposed for development contains more than one (1) habitat type,

development shall be:

1. clustered on the least sensitive portion of the parcel, until the maximum allowable density is reached;
2. if further development occurs, it shall be clustered on the next least sensitive portion of the parcel, until maximum allowable density is reached, etc.; and
3. development permitted on the least sensitive portion(s) of a parcel shall be clustered within that portion(s) of the parcel.
4. Modification of the development footprint to minimize the impact on existing native understory and canopy trees.

When a parcel proposed for development contains more than one (1) habitat type, all development shall be clustered on the least environmentally sensitive portions of the parcel. For the purpose of this policy, the relative sensitivity of separate habitat types shall be classified as shown below with Class I being the most sensitive and Class III being the least sensitive.

Class I

Saltmarsh and/or buttonwood association wetlands;
Beach or berm;
High quality hammock;
Moderate quality hammock;
Low quality hammock;

Class II

Disturbed beach or berm;
Disturbed with salt marsh and/or buttonwood association wetlands (lawfully converted to disturbed uplands);
Disturbed with hammock;

Class III

Disturbed; and
Disturbed with exotics.

Development within the least sensitive habitat shall achieve the maximum density or intensity allowable and shall fully utilize the net buildable area of the habitat prior to expanding to the next least sensitive habitat type on the site. The OSR for Class I habitat types shall be implemented by the developer/property owners execution of a Grant of Conservation Easement Agreement (GOCEA), stating the required amount of open space.

Affordable Housing

The proposed redevelopment does not create any affordable housing. Conservation Native Area has the same 4-acre density requirement for both Affordable and Market Rate units.

Wastewater

The property will have to connect to the sewer system. This is a completely isolate parcel from all public rights of way. The City cannot provide sewer service directly to the applicant. The applicant will have to connect through the Seawatch collection system and needs to work out an agreement

with them in order to have the required sewer services needed for development.

Stormwater

The property currently has no erosion control or stormwater management system. A stormwater management system will be constructed onsite as part of the site redevelopment. This system will retain, detain, and treat stormwater on the property and therefore will provide a substantial benefit to water quality in the area.

FEMA/Floodplain Management

The island spans the AE 10, AE 11, VE 12, and VE 15 flood zones. Any development will have to meet the strictest criteria based upon which flood zone the proposed structure falls within. The preliminary flood zones place the island within the AE 9 and VE 13 flood zones. Most of the island is outside the Limit of Moderate Wave Action (LiMWA). Should the flood maps be adopted prior to permit issuance, the structure will have to be reviewed as under VE flood zone requirements if any of the structure is proposed within the LiMWA area.

Compliance with Bulk and Open Space Regulations

Open Space

The previous agreement recognized the disturbed area which requires a 20 percent open space ratio. The previous agreement also stipulated that 3.16 acres of the palm hammock could be impacted. The agreement also states that the disturbed area and maximum of 3.16 acres of palm hammock are subject to environmental design criteria which include clustering and open space requirements. To incentivize development clustering in the disturbed area, staff is proposing to review TBR applications within this area as separate from the overall site in reference to the transfer process requirements.

Height

The land development regulations establish an overall building height of 42 feet. When plans are submitted they will have to show that the building does not exceed the 42-foot height limitation.

Setbacks

When plans are submitted they will have to show that the building complies with all front yard, side yard, and shoreline setbacks as required by the City of Marathon Land Development Regulations (LDRs).

Density

The application indicates that the island is 13.3 acres. The proposed densities comply with the Conservation FLUM and Conservation Native Area Zoning.

Use	Units/acre	Proposed # Units	Required Acreage/Dwelling Unit
Market Rate Dwelling Units	.25	1	4
Affordable/Workforce Dwelling Units	.25	0	0
Total Acreage Required			4
Total Acreage Provided			13.3

RECOMMENDATION:

Planning Staff recommends that the Planning Commission forward a recommendation of **CONDITIONAL APPROVAL** of the Development Agreement to City Council.

Conditions of Approval

- Modify the following sections of the Development Agreement as follows:
 - Correct Page 18 Exhibit C to state “DCA Agreement”, not “Site Plan,” per second whereas.
 - Correct Exhibit C to state “DCA Agreement,” and not “Site Plan,” per second whereas.
 - Remove “plus accessory structures” from the 10th whereas to be compliant with Table 103.15.1 of the LDRs, as well as the original agreement with DCA.
 - Update section as it pertains to site plan.
 - Update the dates to reflect the actual meetings prior to recordation.

Exhibit A

7/15/81
WAA
HWA

AGREEMENT

THIS AGREEMENT is entered into between ISLAND HOMES OF THE KEYS, INC., a New Jersey corporation; MONROE COUNTY, FLORIDA; and the DEPARTMENT OF COMMUNITY AFFAIRS, State of Florida (herein "DCA").

WHEREAS, Island Homes of the Keys, Inc., is the owner of an approximately 13.3-acre island within the development originally known as "Seawatch," the island portion of which is described on Exhibit A attached hereto and made a part hereof; and

WHEREAS, the said real property is within the boundaries of the Florida Keys Area of Critical State Concern, as designated pursuant to Sections 380.05 and 380.0552, Florida Statutes; and

WHEREAS, the Department of Community Affairs is the state land planning agency under Chapter 380, Florida Statutes, the Florida Environmental Land and Water Management Act of 1972 (herein "the Act"), with the duty and responsibility for the general supervision of the administration and enforcement of the Act and all rules and regulations promulgated thereunder, including the Monroe County comprehensive plan and land development regulations; and

WHEREAS, the prior owner of the subject property received major development approval from Monroe County for a five-phase multi-family project known as "Seawatch" pursuant to Section 6-221, et seq., Monroe County Code (now repealed), the island portion of which was not developed under the major development approval; and

WHEREAS, the current corporate owner is successor in title to the original owners of the Seawatch development and as such owns the subject 13.3-acre island which is presently undeveloped except

SIGNED AGREEMENT

for 43 completed Seawatch condominium boat docks; and

WHEREAS, in preparing its Comprehensive Plan adopted by Ordinance No. 016-1993, on April 15, 1993, Monroe County approved a density designation of Residential-High for the island on its comprehensive plan future land use map; and

WHEREAS, pursuant to Section 380.0552(9), Florida Statutes, because of the Department's assessment of the environmental sensitivity of the island, the Department recommended and the Administration Commission published proposed administrative Rule No. 28-20.100(34)(f), F.A.C., which will change the future land use map designation of the island from Residential-High (RH) to Residential-Low (RL), thereby reducing density on the island; and

WHEREAS, the parties hereto wish to avoid potential litigation, including the uncertainty, expense and delay attendant thereto, regarding the future land use map designation and future development potential of the island, and it is in their best interests to do so; and

WHEREAS, pursuant to Section 380.032(3), Florida Statutes, the Department may enter into agreements with any landowner, developer, or governmental agency as may be necessary to effectuate the provisions and purposes of the Act or any rules promulgated thereunder; and

WHEREAS, the Department finds that this agreement is proper and necessary to effectuate the provisions and purposes of the Act and the Monroe County comprehensive plan adopted thereunder.

NOW, THEREFORE, in consideration of the mutual promises and

covenants contained herein and the benefits accruing to each party, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Recitals. The above recitals are incorporated herein and form a material part of this agreement.

2. Development Authorized. Notwithstanding the density regulations now or hereafter applicable to the subject property, a portion of the hammock acreage of the island and the approximately 1.38 acres of disturbed area of the island may be developed with a maximum of eight (8) single-family residences as provided in paragraph 3 below. Detached habitable space (e.g., bedroom additions, guest units, maid's quarters, and similar structures) are not allowed. Roads necessary for access to and on the island, if any, shall be developed pursuant to the Monroe County land development regulations in effect at the time of permitting. No development other than the existing boat docks, necessary access roads, and the residential units specifically authorized in this Agreement shall be allowed on the island.

3. Location of Residential Development. The map attached as Exhibit B hereto is an approximation of the habitat on the island. Pursuant to a field verification of the habitat conducted by Monroe County in connection with this agreement, the parties agree that the area designated as "hammock" on Exhibit B hereto consists of 7.49 acres of undisturbed palm hammock and .67 acres of berm. The land area which may be utilized for the maximum of eight (8) single-family residences shall be sited within the disturbed area

3

and/or within a maximum of 3.16 acres of the palm hammock as follows: a maximum of seven (7) single-family residences may be sited in the palm hammock and one (1) single-family residence may be sited in the disturbed area. The area utilized for the single-family residences (or, if subdivided, each lot within the area utilized for the single-family residences) shall be contiguous, it being the parties' intent that development shall not be scattered but shall be confined within one portion of the island.

4. Grandfathered Density; Development Subject to Land Use Regulations.

The development authorized under this Agreement shall be deemed to be grandfathered for density only under the Monroe County comprehensive plan, including any amendments adopted by the Monroe County Board of County Commissioners or adopted by rule of the Administration Commission, now or hereafter in effect. Otherwise, the development authorized under this agreement shall be subject to all Monroe County land development regulations in effect at the time the Owner or its successor applies for a building permit or permits from Monroe County for such development, including but not limited to the County's rate of growth regulations and its environmental design criteria.

The Owner recognizes that the environmental design criteria include clustering and open space requirements. The Owner further recognizes that the disturbed area and the maximum of 3.16 acres of palm hammock which may be utilized under this agreement will be subject to those environmental design criteria. It is the

intent of the parties to preserve undisturbed in its natural state as much of the palm hammock vegetation on the island as possible while at the same time allowing some limited residential development on the island.

5. Land Use Designation Under Proposed Rule 28-20.100(34), F.A.C. In light of the parties' agreement regarding density in the preceding paragraphs of this agreement, the parties agree that the Administration Commission's proposed Rule 28-20.100(34), F.A.C., designating the future land use designation of the subject property as Residential Low (RL) shall remain unchanged. The Owners hereby waive any present or future challenge to the Residential Low land use designation.

6. Release; Costs and Attorney's Fees. The Owner waives any claim it has or may have against the Department or the Administration Commission arising out of the recommendation or publication of proposed administrative Rule 28-20.100(34), F.A.C. Each party shall bear its own costs and attorney's fees incurred in connection with this agreement.

7. Major Development Approval. The parties acknowledge and agree that the subject 13.3-acre island shall not be developed under the major development approval previously granted for the condominium development known as "Seawatch," and that the major development approval is deemed by all parties to be void and of no further force and effect as to the island.

8. Scope of Authority. This agreement affects the rights and obligations of the parties under the provisions of Chapter 380,

3

Florida Statutes, relating to areas of critical state concern. It is not intended to influence or determine the authority or decisions of any other state or local government or agency in issuance of any other permits or approvals that might be required by state law or local ordinance for any development authorized by this Agreement.

9. Duplicate Originals. This Agreement may be executed in any number of originals, all of which evidence one agreement, and only one of which need be produced for any purpose.

10. Entirety of Agreement; Amendment. This Agreement constitutes the entire agreement of the parties. This Agreement may be modified or amended only by a separate written instrument signed by all parties hereto and recorded in the public records of Monroe County, Florida, as provided in paragraph 11 below.

11. Covenant; Binding Effect; Recordation and Proof Thereof. This agreement is intended to and shall create a covenant running with the land. This agreement shall inure to the benefit of and be binding on Island Homes of the Keys, Inc., Monroe County, and the Department of Community Affairs, and their heirs, successors, and assigns, including subsequent purchasers of the subject property from Island Homes of the Keys, Inc. Within fourteen (14) days after the date of this Agreement, the Owner shall record this Agreement in the public records of Monroe County, Florida, or shall mail this Agreement to the Clerk for recording, and shall promptly thereafter furnish to the Department and Monroe County proof of recordation, including the book and page number where this

Agreement is recorded. Proof of recordation shall be directed to Mike McDaniel, Growth Management Administrator, Region II, Department of Community Affairs, 2740 Centerview Drive, Tallahassee, FL 32399-2100, and Lorenzo Aghemo, Monroe County Planning Director, Monroe County Growth Management Division, Marathon Regional Service Center, 2796 Overseas Highway, Suite 400, Marathon, FL 33050, or such other persons as they shall designate in writing on behalf of their respective government entities.

12. Date of Agreement. The date of this Agreement is the date the last party signs this Agreement.

IN WITNESS WHEREOF, the parties, by their duly authorized undersigned representatives, have executed this Agreement on the dates and year below written.

ISLAND HOMES OF THE KEYS, INC.
a New Jersey corporation

(CORPORATE SEAL)

BY Anna L. Hotz
Anna L. Hotz
President

and
BY Robert M. Rehbock
Robert M. Rehbock
Secretary

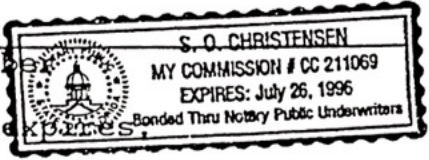
STATE OF FLORIDA
COUNTY OF MONROE

The foregoing instrument was acknowledged before me this 19th day of January, 1995, by Anna L. Hotz as President of Island Homes of the Keys, Inc., who is personally

known to me or who has produced as identification, and who did (did not) take an oath.

S.O. Christensen
Notary Public

S.O. CHRISTENSEN
Name (typed, printed or stamped)

Commission Number _____
My commission expires _____


STATE OF FLORIDA
COUNTY OF MONROE

The foregoing instrument was acknowledged before me this 19th day of January, 1995, by Robert M. Rehbock, as Secretary of Island Homes of the Keys, Inc., who is personally known to me or who has produced as identification, and who did (did not) take an oath.

S.O. Christensen
Notary Public

S.O. CHRISTENSEN
Name (typed, printed or stamped)

Commission Number _____
My commission expires _____


MONROE COUNTY, FLORIDA

BY Shirley Freeman
~~XXXXXXXXXXXX~~, Mayor
Shirley Freeman

ATTEST:
DANNY L. KOLHAGE, CLERK
By Ruth D. Infante
Deputy Clerk

DATE: February 21, 1995

STATE OF FLORIDA
COUNTY OF MONROE

This instrument was acknowledged before me this 2nd day of March, 1995, by Shirley Freeman, Mayor of Monroe County, who is personally known to me and who did not take an oath.

Ruth Ann Jantzen
Notary Public

Notary Public
RUTH ANN JANTZEN
STATE OF FLORIDA
My Comm Exp 12/30/95
BONDED

Name (typed, printed or stamped)

CC 173022
Commission Number

My commission expires:

DEPARTMENT OF COMMUNITY AFFAIRS,
An Agency of the State of Florida

By Charles Pattison
Charles Pattison
Director, Division of Resource Planning and Management

5/3/95
Date

STATE OF FLORIDA
COUNTY OF LEON

This instrument was acknowledged before me this 3rd day of May, 1995, by Charles Pattison, Director, Division of Resource Planning and Management, Department of Community Affairs, who is personally known to me and who did not take an oath.

Jane R. Bass
Notary Public

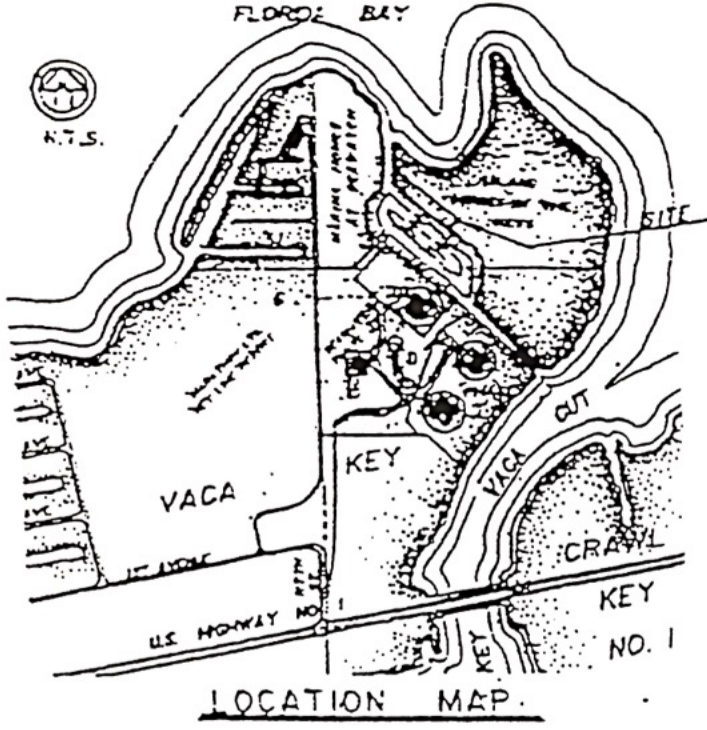
Jane R. Bass
Name (typed, printed or stamped)

CC 201689
Commission Number

My commission expires

APPROVED AS TO FORM AND LEGAL SUFFICIENCY
BY [Signature]
Attorney's Office

JANE R. BASS
MY COMMISSION EXPIRES
JUNE 24, 1996
#CC 201689
NOTARY PUBLIC, STATE OF FLORIDA



LOCATION MAP.

Description:

A parcel of land in Government Lot 1, Section 22, Township 65 South, Range 22 East and Government Lot 4, Section 5, Township 66 South, Range 22 East, on Key Vaca, Monroe County, Florida and being more particularly described as follows: COMMENCE at the Southwest corner of said Section 22; thence N. 85° 28' 04" E., along the South line of said section 22 a distance of 736.96 feet to the face of a concrete seawall and the Point of Beginning; thence N. 00° 35' 35" E., along the face of a concrete seawall a distance of 76.85 feet; thence N. 45° 10' 02" W., along the face of a concrete seawall a distance of 347.94 feet; thence N. 37° 27' 45" E., a distance of 7.06 feet along the face of a concrete seawall; thence N. 40° 24' 06" E., along the face of a concrete seawall a distance of 754.25 feet; thence N. 01° 30' 35" E., along the face of a concrete seawall a distance of 5.85 feet; thence N. 00° 45' 18" E., along a channel a distance of 22.35 feet; thence N. 00° 37' 22" E., along a channel a distance of 136.12 feet to the West right water line of the Bay of Florida; thence N. 67° 14' 40" E., and measuring the said West right water line with the following thirty four (34) meters and bounds a distance of 25.44 feet; thence S. 23° 01' 20" E., a distance of 53.78 feet; thence S. 01° 10' 00" E., a distance of 25.66 feet; thence S. 27° 03' 35" E., a distance of 31.21 feet; thence S. 51° 27' 45" E., a distance of 23.62 feet; thence S. 33° 41' 45" E., a distance of 76.77 feet; thence S. 48° 18' 55" E., a distance of 46.47 feet; thence S. 63° 41' 45" E., a distance of 82.72 feet; thence N. 78° 40' 25" E., a distance of 64.28 feet; thence N. 58° 08' 53" E., a distance of 43.32 feet; thence N. 47° 52' 22" E., a distance of 102.82 feet; thence N. 45° 02' 52" E., a distance of 57.44 feet; thence N. 64° 50' 55" E., a distance of 91.65 feet; thence N. 64° 33' 25" E., a distance of 98.54 feet; thence N. 67° 08' 05" E., a distance of 98.32 feet; thence N. 34° 12' 34" E., a distance of 46.12 feet; thence N. 78° 08' 25" E., a distance of 46.92 feet; thence S. 30° 15' 45" E., a distance of 43.88 feet; thence S. 58° 12' 50" E., a distance of 142.34 feet; thence S. 41° 28' 45" E., a distance of 218.57 feet; thence S. 24° 36' 45" E., a distance of 72.36 feet; thence S. 17° 57' 41" E., a distance of 98.32 feet; thence S. 05° 11' 45" E., a distance of 152.85 feet; thence S. 27° 01' 45" E., a distance of 42.74 feet; thence S. 07° 12' 45" W., a distance of 64.74 feet; thence S. 24° 37' 01" W., a distance of 76.11 feet; thence S. 02° 31' 50" E., a distance of 98.64 feet; thence S. 04° 48' 01" W., a distance of 30.44 feet; thence S. 11° 43' 43" W., a distance of 60.42 feet; thence S. 09° 05' 13" W., a distance of 92.48 feet; thence S. 30° 12' 12" W., a distance of 107.11 feet; thence S. 30° 09' 05" W., a distance of 107.65 feet; thence S. 48° 14' 22" W., a distance of 82.87 feet; thence S. 65° 15' 00" W., a distance of 5.85 feet to a channel; thence N. 48° 15' 30" W., along the said channel a distance of 396.51 feet to a concrete seawall; thence N. 40° 28' 01" E., along a concrete seawall a distance of 35.56 feet; thence S. 45° 28' 01" W., along the face of a concrete seawall a distance of 35.56 feet; thence N. 00° 35' 35" E., along the face of a concrete seawall for 131.15 feet to the Point of Beginning; containing 577,656.28 Square feet, or 13.2612 acres, more or less.

LINE TABLE

Line	Bearing	Distance
11	N. 00° 35' 35" E.	76.85'
12	N. 45° 10' 02" W.	347.94'
13	N. 37° 27' 45" E.	7.06'
14	N. 40° 24' 06" E.	754.25'
15	N. 01° 30' 35" E.	5.85'
16	N. 00° 45' 18" E.	22.35'
17	N. 00° 37' 22" E.	136.12'
18	N. 67° 14' 40" E.	25.44'
19	S. 23° 01' 20" E.	53.78'
20	S. 01° 10' 00" E.	25.66'
21	S. 27° 03' 35" E.	31.21'
22	S. 51° 27' 45" E.	23.62'
23	S. 33° 41' 45" E.	76.77'
24	S. 48° 18' 55" E.	46.47'
25	S. 63° 41' 45" E.	82.72'
26	N. 78° 40' 25" E.	64.28'
27	N. 58° 08' 53" E.	43.32'
28	N. 47° 52' 22" E.	102.82'
29	N. 45° 02' 52" E.	57.44'
30	N. 64° 50' 55" E.	91.65'
31	N. 64° 33' 25" E.	98.54'
32	N. 67° 08' 05" E.	98.32'
33	N. 34° 12' 34" E.	46.12'
34	N. 78° 08' 25" E.	46.92'
35	S. 30° 15' 45" E.	43.88'
36	S. 41° 28' 45" E.	218.57'
37	S. 24° 36' 45" E.	72.36'
38	S. 17° 57' 41" E.	98.32'
39	S. 05° 11' 45" W.	152.85'
40	S. 27° 01' 45" E.	42.74'
41	S. 07° 12' 45" W.	64.74'
42	S. 24° 37' 01" W.	76.11'
43	S. 02° 31' 50" E.	98.64'
44	S. 04° 48' 01" W.	30.44'
45	S. 11° 43' 43" W.	60.42'
46	S. 09° 05' 13" W.	92.48'
47	S. 30° 12' 12" W.	107.11'
48	S. 30° 09' 05" W.	107.65'
49	S. 48° 14' 22" W.	82.87'
50	S. 65° 15' 00" W.	5.85'
51	N. 48° 15' 30" W.	396.51'
52	N. 40° 28' 01" E.	35.56'
53	S. 45° 28' 01" W.	35.56'
54	N. 00° 35' 35" E.	131.15'

CERTIFICATION

A

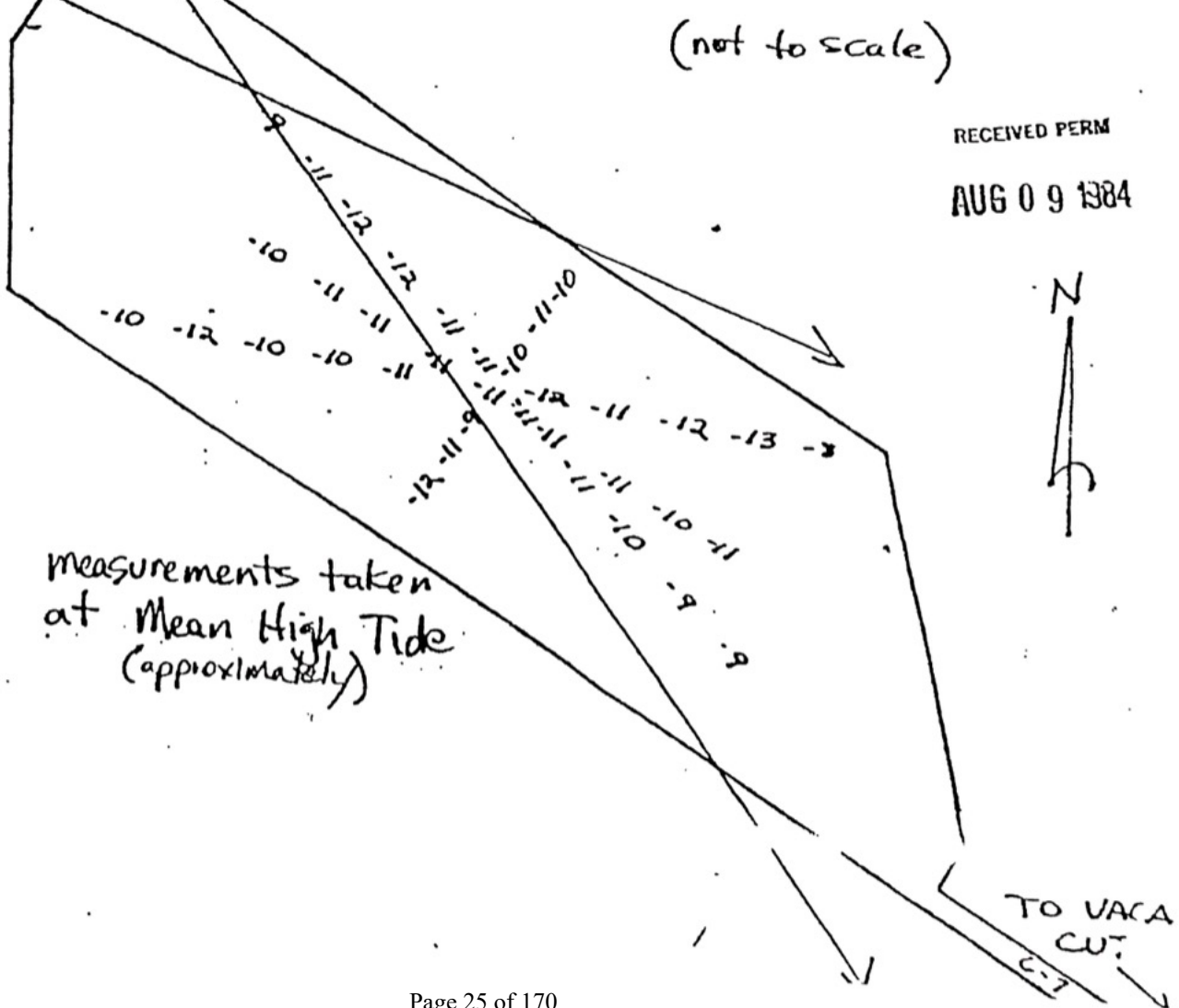
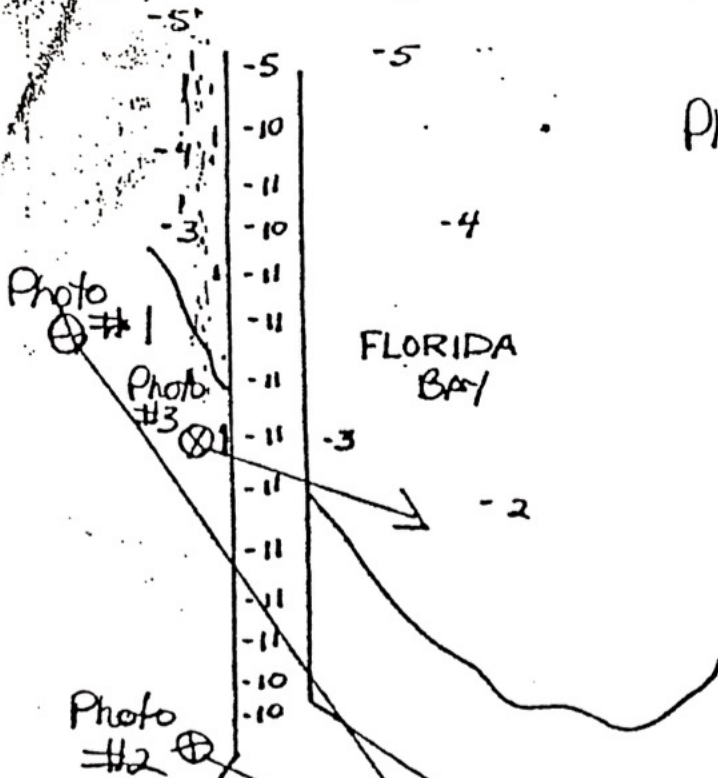
Photo Orientation (file)

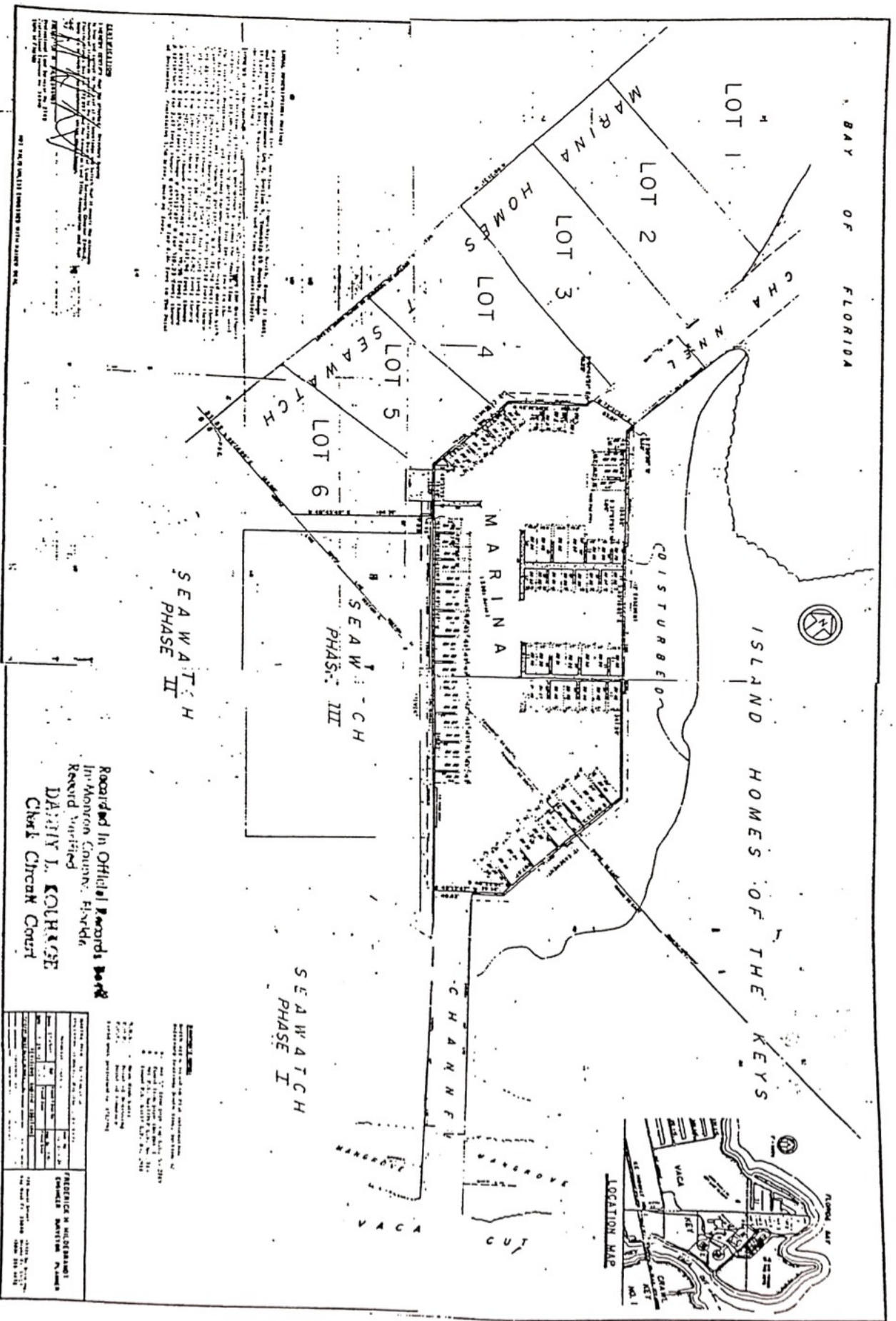
DEPTH PROFILE

Turtle Kraals
Appl. # 44-42081
Taken on 8-28-81
by John Meyer and
David Bishop

(not to scale)

RECEIVED PERM
AUG 09 1984





CLASSIFICATION
 This project is a residential development consisting of six lots, a marina, and three phases of seawatch. The project is located in the County of Monroe, State of Florida. The project is being developed by the Florida Keys Development Corporation, a corporation organized under the laws of the State of Florida. The project is being developed in accordance with the Florida Building Code, the Florida Electrical Code, and the Florida Mechanical Code. The project is being developed in accordance with the Florida Building Code, the Florida Electrical Code, and the Florida Mechanical Code. The project is being developed in accordance with the Florida Building Code, the Florida Electrical Code, and the Florida Mechanical Code.

EXHIBIT

Recorded in Official Records Book
 In Monroe County, Florida
 Record Verified
DANNY L. KOURGE
 Clerk Circuit Court

DATE OF RECORDING	11/17/77
BOOK AND PAGE	1177 41255
RECORDING OFFICE	MONROE COUNTY, FLORIDA
APPLICANT	FLORIDA KEYS DEVELOPMENT CORPORATION
RECORDING FEE	\$100.00
TAXES	
OTHER FEES	
TOTAL FEE	\$100.00

Exhibit B

DEVELOPMENT AGREEMENT FOR SEAWATCH

THIS AGREEMENT is entered into by and between ISLAND HOMES OF THE KEYS, INC., a New Jersey corporation (herein, the “Owner”) and the CITY OF MARATHON, a Florida municipal corporation (herein, the “City”), pursuant to Sections 102.29, 102.30, 102.31 and 102.32 of the City Code, and the Florida Local Government Development Agreement Act, Sections 163.3220-163.3243, Florida Statutes (2011), and is binding on the “Effective Date” set forth herein.

WITNESSETH:

WHEREAS, Owner is the owner of approximately 13.3 acres of contiguous uplands in the corporate limits of the City consisting of a vacant island, RE Number 00104135-000000, part of the development originally known as “Seawatch”, at Mile Marker 50 on Vaca Key more particularly described in the legal description attached hereto as **Exhibit A**, (“Property”). A copy of the Warranty Deed is attached hereto as **Exhibit B**; and

WHEREAS, the Property is currently subject to the 1995 agreement governing the development of the Property pursuant to Section 380.032(3), Florida Statutes (the “Agreement”) by and between the Florida Department of Community Affairs (“DCA”) and Monroe County, Florida (“Monroe County”) attached hereto and incorporated herein as **Exhibit C**; and

WHEREAS, the Agreement relates to the permissible development of a 13.3 acre island as single-family residences. As of the date of execution of the Agreement, development of the Property was governed by Monroe County Code (the “County Code”), and is now governed by the City of Marathon Code (the “Marathon Code”); and

WHEREAS, the Agreement provides that the Property “may be developed with a maximum of eight (8) single-family residences” and acted to “grandfather” the density of the Property at eight (8) units. See Agreement, Sec. 1, 3. The Agreement provides that apart from the “grandfathered” density, development of the Property “shall be subject to all Monroe County land development regulations in effect at the time the Owner or its successor applies for a building permit or permits from Monroe County for such development, including but not limited to the County’s rate of growth regulations and its environmental design criteria.”; and

WHEREAS, the Agreement provides that “the maximum of eight (8) single family residences shall be sited within the disturbed area and/or within a maximum of 3.16 acres of the palm hammock...” See Agreement, Sec 3, 4.

WHEREAS, subsequent to the Agreement’s approval, the City incorporated and adopted its own code, including a Building Permit Allocation System (“BPAS”) which differs from the Rate of Growth System previously in effect when the Agreement was approved.

WHEREAS, it was the intent of the signatories of the Agreement to permit the development of the property as eight single family market rate residential dwelling units with seven units situated in the palm hammock and one unit located in the disturbed area along the Western portion of the Property.

WHEREAS, the Parties recognize that the ability to fulfill the intent and purpose of the Agreement are limited due to the dwelling units to be located in palm hammock and limitations on allocating to palm hammock unless provided in this Agreement which provides certainty to both the City and Owner as to the development to occur at the Property; and

WHEREAS, in order to partially fulfill the intent of the Agreement, it is the Parties intent to allowing a driveway cleared along with clearing an unfragmented area made up of approximately 2.25 acres of the Property’s 13.3 acres as well as clear a walking path to the Eastern side of the Property, as permitted by the Agreement; and

WHEREAS, it is the Parties intent to utilize grandfathered density, as provided in the Agreement, to develop the Property as one (1) single family dwelling unit, not to exceed nine thousand five hundred square foot (9,500 sq. ft.), ~~plus accessory structures~~, to be located as depicted on the attached site plan, pursuant to the Marathon Code setback and bufferyard requirements; and

WHEREAS, it is the intent of the Parties to forfeit any remaining grandfathered density not utilized to develop the Property; and

WHEREAS, in order to protect the development rights of the Property and the economic viability of the land; and to preempt the possibility of a governmental taking of the Property under the doctrine of inverse condemnation, the Owner agrees to : 1) acquire and transfer one (1) existing residential development right pursuant to Article 2, Section 107.13 of the Land Development Regulations but without any restriction on the habitat type of the sender or receiver site, in order to develop one (1) single family dwelling unit on the Property or (2) apply for and obtain one residential BPAS permit through the BPAS allocation system as defined in Chapter 107, Article 1 of the City Code; and

WHEREAS, the proposed development is permissible and appropriate for the City's Comprehensive Plan Future Land Use designation, Conservation Native Area (CNA) applicable to the Property, which allows single family dwelling units; and

WHEREAS, the Owner has provided public notice of the parties' intent to consider entering into this Agreement by publishing an advertisement in a newspaper of general circulation and readership in the City, posting the Property subject to this Agreement, and mailing notices to the property owners lying within 300 feet of the boundaries of the Property subject to this Agreement; and

WHEREAS, the City Planning Commission has held a public hearing on ~~March 15, 2021~~, to consider this Agreement, and the City Council held two public hearings on ~~April 13, 2021~~ and ~~May 11, 2021~~ to consider this Agreement; and

WHEREAS, the City has determined that this Agreement is in the public interest and will further the health, safety, welfare, of the residents of the City of Marathon.

NOW, THEREFORE, in consideration of the mutual promises and undertakings contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

A. RECITALS. The recitals set forth in the preceding “Whereas” clauses are incorporated herein and form a material part of this Agreement.

B. DEFINITIONS. For the purposes of this Agreement, the following terms shall have the following meanings. Terms not defined in this Agreement shall be as defined in the City Code, in Chapter 163, Florida Statutes, or, if not defined in the Code or Statute, shall be understood by their usual and customary meaning.

1. **“Agreement”** shall refer to this Development Agreement, as the same may be subsequently amended, modified, or supplemented pursuant to its terms and provisions and pursuant to the provisions of Sections 163.3220-163.3243, inclusive, Florida Statutes.

2. **“Building Permit Allocation System” or “BPAS Allocation** shall refer to those terms defined in Chapter 107, Article 1 of the City Code.

3. **“City Code”** shall refer to the Code of Ordinances of the City of Marathon in existence on the Effective Date of this Agreement.

4. **“Comprehensive Plan”** shall refer to the City’s Comprehensive Plan, effective July 5, 2005, as amended to the submittal date of this Agreement to the City.

5. **“Dwelling Unit”** shall refer to a dwelling unit as defined in Chapter 110, Article 3. - Defined Terms of the City Code.

6. **“Effective Date”** shall refer to the date this Agreement becomes effective, as set forth in this Agreement.

7. **“Florida Department of Economic Opportunity (DEO) and “state land planning agency”** shall mean and refer to the “state land planning agency” as defined in Chapter 163, Part II, Florida Statutes.

8. **“Land Development Regulations”** (LDRs) shall mean Appendix A of Part II of the City Code in existence on the Effective Date of this Agreement.

9. **“Owner”** shall refer to the owner of the Property identified in the first paragraph of this Agreement.

10. **“Property”** shall refer to the parcel of real property located in the City that is the subject of this Agreement as described on **Exhibit A** attached hereto and made a part hereof.

11. **“Public facilities”** means those facilities identified in Section 163.3221, Florida Statutes (2011), and as set forth in this Agreement.

C. TERMS OF AGREEMENT.

1. Legal Description; Ownership and Equitable Interests in the Property. The legal description of the Property subject to this Agreement is attached hereto as **Exhibit A** and is incorporated herein, along with **Exhibit B**, Warranty Deed, and **Exhibit C**, DCA Agreement ~~Redacted Purchase and Sale Agreement~~.

2. Duration of Agreement, Agreement Renewal.

This Agreement shall remain in effect for an initial period of ten (10) years, commencing on the Effective Date set forth below. This Agreement may be renewed or extended as provided herein.

3. Plan Approval, including Densities and Intensities.

a. Approval of Conceptual Site Plan; Minor Revisions; Final Site Plan. The Property shall be redeveloped by allowing the area, ~~as depicted on the Site Plan for Seawatch dated _____ attached hereto as Exhibit C,~~ to be cleared without fragmentation, ~~along with a driveway and walking path (“Cleared Land”)~~, developed as a Single Family Dwelling Unit, not to exceed nine thousand five hundred square foot (9,500 sq. ft.) ~~plus additional structures including a guest cottage, garage, pool etc., all of which shall be attached as a portion of the principal structure’s foot print, but which shall be in addition to the nine thousand five hundred square foot (9,500 sq. ft.) primary residence,~~ all of which must be setback a minimum of twenty feet (20 ft.) from any edge of the Cleared Land. ~~The Conceptual Site Plan is hereby approved by the City, and any subsequent site plans, site plan approvals and building permits shall substantially comply with this Site Plan; provided, however, that the Final Site plan submitted for building permits may deviate from the Conceptual Site Plan to accommodate refinements to the development plan including shifts in location of the Single Family Dwelling Unit, roadways, pathways, and swimming pool configurations or placement anywhere within the Cleared Land, subject to all setback and bufferyard requirements.~~ The Final Site Plan will meet all applicable setback, open space, landscape bufferyard, clustering, parking, and building height requirements established in City Code and such requirements shall not be varied unless Owner obtains a variance pursuant to applicable provisions of the City Code.

b. Building Height. The height of any new structure associated with the redevelopment of the Property shall not exceed 42 feet, except as provided by City Code, as amended.

c. BPAS Allocation. The Property shall: 1) acquire and transfer one (1) existing residential development right pursuant to Article 2, Section 107.13 of the Land Development Regulations but without any restriction on the habitat type of the sender or receiver site, in order to develop one (1) single family dwelling unit on the Property or (2) apply for and

obtain one residential BPAS permit through the BPAS allocation system as defined in Chapter 107, Article 1 of the City Code. The purpose and intent of the Agreement is to allow the transference of one existing residential unit from any land located within the City to the Property, ~~regardless of habitat restrictions on transference contained with the City Code~~ by reviewing the disturbed area as separate from the hammock area.

c. Permits from Other Regulatory Entities. Other agency permits may be required as provided by applicable law prior to the City's issuance of building permits for redevelopment of the Property. The Owner shall obtain all necessary permits from other local, regional, State, and federal regulatory entities and provide copies of each to the City within a reasonable time after such permits are issued.

d. Additional Conditions by Mutual Agreement. Nothing in this Agreement shall preclude the parties from applying additional conditions, by mutual written consent, during the final permitting approval process, without requiring an amendment to this development agreement.

4. Public facilities; Concurrency, Impact Fees. The following identifies the public facilities that are required and that will service the development authorized by this Agreement; who shall provide the facilities; what new facilities, if any, will be constructed; and a schedule to assure public facilities are available concurrent with the impacts of development.

a. Potable Water. Domestic potable water is provided by the Florida Keys Aqueduct Authority.

b. Electric Service. Electric service is provided by Florida Keys Electric Cooperative.

c. Solid Waste. Solid waste service is provided by Marathon Garbage Service or its successors and assigns, as determined by the City Council.

d. Fire Service. Fire service is provided by the Marathon Fire Department.

e. Wastewater. Wastewater mains collection and treatment is provided by the City of Marathon.

f. Public Recreational facilities. Public recreational facilities shall be addressed through impact fees, if any.

g. Concurrency. All public facilities identified above are available as of the date of this Agreement, and capacity for each is projected to be available concurrent with the impacts of development.

h. Impact Fees. Any increased impacts on public facilities or public services attributable to each unit of the development, and the cost of capital improvements to meet the associated demand on such facilities or services, shall be assured by payment to the City, concurrent with the issuance of the building permits for each unit, of any applicable City impact fees required by ordinance then in effect, as well as by payment by the Owner of any applicable utility system development fees.

5. Reservations or Dedications of Land for Public Purposes. There is no reservation or dedication of land for public purposes contemplated by this Agreement.

6. All Local Development Permits Approved or Needed.

a. Development Approvals. The following City development approvals are needed for the development authorized by this Agreement:

1. Site Plan. Final Site Plan application and approval by the City building official, fire marshal, and planning staff confirming compliance with this Agreement and applicable City Code requirements.

2. Building Permits. As of right building permits will be issued, as provided pursuant to the City Code.

b. Review. No further review or discretionary review will be required by the City, it being agreed that the development, as depicted on the approved Conceptual Site Plan attached hereto, requires only the above development approvals so long as the Final Site Plan substantially complies with the Conceptual Site Plan approved under this Agreement, excluding the potential deviations, as provided in Section 3 above.

c. Compliance. Nothing in this Agreement shall be deemed to obviate the Owner's compliance with terms and provisions of each such identified approval.

d. Completeness. The parties acknowledge that the Owner has submitted all information necessary for review under the City Code.

7. Mutual Cooperation. The City agrees to cooperate with the Owner in a timely manner in providing and/or granting all permits, licenses, approvals, or consents necessary or appropriate to fully implement this Agreement. The City and the Owner agree to cooperate fully with and assist each other in the performance of the provisions of this Agreement.

8. Development to Comply with Permits and City Comprehensive Plan and Code Provisions. The development described in and authorized by this Agreement shall be constructed in accordance with all specified permit conditions, and in accordance with all applicable provisions of the City's Comprehensive Plan and City Code, as applicable. No certificate of occupancy for an individual building shall be issued until the City has assured itself that, subsequent to approved plans; the Owner has complied with all conditions in the permits issued by the City and other regulatory entities for that building.

9. Finding of Consistency. The City of Marathon finds that the development authorized herein is consistent with the City's Comprehensive Plan and Land Development Regulations, as applicable.

10. Compliance with Permits, Terms, Conditions, and Restrictions not identified herein. The failure of this Agreement to address a particular permit requirement, condition, term, or

restriction shall not relieve the Owner of the necessity of complying with the laws governing said permitting requirements, conditions, terms, or restrictions.

11. Governing Laws.

a. Controlling Regulations. For the duration of this Agreement, all approved development on the Property shall comply with and be controlled by this Agreement and by the provisions of the Comprehensive Plan and City Code, as applicable. The parties do not anticipate the application of subsequently adopted laws and policies to the Property except as expressly provided in this Agreement.

b. State or Federal Laws. If State or federal laws enacted after the effective date of this Agreement preclude any party's compliance with the terms of this Agreement, this Agreement shall be modified as is necessary to comply with the relevant state or federal laws. However, this Agreement shall not be construed to waive or abrogate any rights that may vest pursuant to common or statutory law.

12. Amendments, Renewal, Revocation and Termination. This Agreement may be amended, renewed, or terminated as follows:

a. Amendments. As provided in Section 163.3237, Florida Statutes, this Agreement may be amended by mutual consent of the parties to this Agreement or by their successors in interest; an instrument in writing signed by the parties or their successors shall accomplish an amendment under this provision.

b. Renewal. As provided in Section 163.3229, Florida Statutes, this Agreement may be renewed by the mutual consent of the parties, subject to the following public hearing requirements in Section 163.3225, Florida Statutes: the City shall conduct at least two (2) public hearings, one of which may be held by the local planning agency at the option of the City. Notice of intent to consider renewal of the Agreement shall be advertised approximately seven (7) days before each public hearing in a newspaper of general circulation and readership in Monroe County, Florida,

and shall be mailed to all affected property owners before the first public hearing. The day, time, and place at which the second public hearing will be held shall be announced at the first public hearing. The notice shall specify the location of the land subject to the Agreement, the development uses on the Property, the population densities, and the building intensities and height and shall specify a place where a copy of the Agreement can be obtained.

c. Termination by Owner. This Agreement may be terminated by the Owner or its successor(s) in interest following a breach of this Agreement, upon written notice to the City as provided in this Agreement.

d. Revocation by City. Pursuant to Section 163.3235, Florida Statutes, this Agreement may be revoked by the City if the City finds, on the basis of competent substantial evidence, that there has been a failure to comply with the terms of this Agreement.

e. Termination by Mutual Consent. This Agreement may be terminated by mutual consent of the parties.

13. Breach of Agreement and Cure Provisions.

a. Written Notice on the Owner. If the City concludes there has been a material breach of this Agreement, prior to revoking this Agreement the City shall serve written notice on the Owner, identifying the term or condition the City contends has been materially breached and providing the Owner ninety (90) days from the date of receipt of the notice to cure the breach or negotiate an amendment to the Agreement. Each of the following events, unless caused by fire, storm, flood, other Act of God, or events beyond the control of the Owner, shall be considered a material breach of this Agreement: (a) failure to comply with the provisions of this Agreement; or (b) failure to comply with terms and conditions of permits issued by the City of Marathon or other regulatory entity for the development authorized by this Agreement.

b. Written Notice on the City. If the Owner concludes that there has been a material breach in the terms and conditions of this Agreement, the Owner shall serve written notice on the City, identifying the term or condition the Owner contends has been materially breached and providing the City thirty (30) days from the date of receipt of the notice to cure the breach. The following events, unless caused by fire, storm, flood, other Act of God, or events beyond the control of the City, shall be considered a material breach of this Agreement: (a) failure to comply with the provisions of this Agreement, or (b) failure to timely process any application for site plan approval or other development approval required to be issued by the City for the development authorized by this Agreement.

c. Option to Terminate. If a material breach of this Agreement occurs and is not cured within the time periods provided above, the party that provided notice of breach may elect to terminate this Agreement or may seek to enforce this Agreement as provided herein.

d. Waiver of Breach. If either party waives a material breach in this Agreement by the other party, such a waiver shall not be deemed a waiver of any subsequent breach.

14. Notices. All notices, demands, requests, or replies provided for or permitted by this Agreement, including notification of a change of address, shall be in writing to the addressees identified below, and may be delivered by any one of the following methods: (a) personal delivery; (b) deposit with the United States Postal Service as certified or registered mail, return receipt requested, postage prepaid; or (c) deposit with an overnight express delivery service with a signed receipt required. Notice shall be effective upon receipt. The addresses and telephone numbers of the parties are as follows:

TO THE OWNER:

Island Homes of The Keys, Inc.
Steven Hotz and John Hotz
PO Box 179
Medford NJ 08055

With a copy by regular U.S. Mail to:

Smith Hawks, PL
138 Simonton Street
Key West, Florida 33040
Telephone: (305) 296-7227

TO THE CITY:

George Garrett, City Manager
City of Marathon
9805 Overseas Highway
Marathon, Florida 33050
Telephone: (305) 289-4111

With a copy by regular U.S. Mail to:

Steven Williams, City Attorney
City of Marathon
9805 Overseas Highway
Marathon, Florida 3350
Telephone: (305) 289-4111

15. Enforcement. In accordance with Section 163.3243, Florida Statutes, any party to this Agreement, any aggrieved or adversely affected person as defined in Section 163.3215(2), Florida Statutes, or the state land planning agency may file an action for injunctive relief in the circuit court of Monroe County, Florida, to enforce the terms of this Agreement or to challenge the compliance of this Agreement with the provisions of Sections 163.3220-163.3243, Florida Statutes.

16. Binding Effect. This Agreement shall be binding upon the parties hereto, their successors in interest, heirs, assigns, and personal representatives.

17. Drafting of Agreement. ~~The parties acknowledge that they jointly participated in the drafting of this Agreement and that no term or provision of this Agreement shall be construed in favor of or against either party based solely on the drafting of the Agreement.~~

17.18. Severability. In the event any provision, paragraph or section of this Agreement is determined to be invalid or unenforceable by a court of competent jurisdiction, such determination shall not affect the enforceability or the validity of the remaining provisions of this Agreement.

18.19. Applicable Law. This Agreement was drafted and delivered in the State of Florida and shall be construed and enforced in accordance with the laws of the State of Florida.

19.20. Litigation; Attorney's Fees; Venue; Waiver of Right to Jury Trial. In the event of any litigation arising out of this Agreement between the City and Owner, the prevailing party shall be entitled to recover all reasonable costs incurred with respect to such litigation, including reasonable attorney's fees. This includes, but is not limited to, reimbursement for such reasonable attorneys' fees and costs incurred with respect to any appellate, bankruptcy, post-judgment, or trial proceedings related to this Agreement. Venue for any legal proceeding arising out of this Agreement shall be in Monroe County, Florida. The parties to this Agreement waive the right to a jury trial in any litigation arising out of or initiated under this Agreement.

20.21. Use of Singular and Plural. Where the context requires, the singular includes the plural, and the plural includes the singular.

21.22. Duplicate Originals; Counterparts. This Agreement may be executed in any number of originals and in counterparts, all of which evidence one agreement. Only one original is required to be produced for any purpose.

22.23. Headings. The headings contained in this Agreement are for identification purposes only and shall not be construed to amend, modify, or alter the terms of the Agreement.

23.24. Entirety of Agreement. This Agreement incorporates or supersedes all prior negotiations, correspondence, conversations, agreements, or understandings regarding the matters contained herein. The parties agree that there are no commitments, agreements, or understandings concerning the subjects covered by this Agreement that are not contained in or incorporated into this document and, accordingly, no deviation from the terms hereof shall be predicated upon any

prior representations or agreements, whether written or oral. This Agreement contains the entire and exclusive understanding and agreement among the parties and may not be modified in any manner except by an instrument in writing signed by the parties.

24.25. Recording; Effective Date. The Owner shall record this Agreement in the public records of Monroe County, Florida, within fourteen (14) days after the date of execution of this Agreement. A copy of the recorded Agreement showing the date, page, and book where recorded shall be submitted to the state land planning agency by hand delivery, registered or certified United States mail, or by a delivery service that provides a signed receipt showing the date of delivery, within fourteen (14) days after the Agreement is recorded. The Owner shall also provide a copy of the recorded Agreement to the City within the same time period. This Agreement shall become effective thirty (30) days after the date it is received by the state land-planning agency.

25.26. Date of Agreement. The date of this Agreement is the date the last party signs and acknowledges this Agreement.

26.27. Reversion of Agreement. If Owner is denied permits from South Florida Water Management District or Army Corp. of Engineers for the development contemplated herein, this Agreement shall be of no force or effect and all density rights forfeited under this Agreement shall be reinstated as if this Agreement has no force or effect.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives,
have set their hands and seals on the dates below written.

ISLAND HOMES OF THE KEYS, INC,
a New Jersey corporation

By: _____
Printed Name: _____
Title: _____

STATE OF NEW JERSEY
COUNTY OF BURLINGTON

The foregoing instrument was acknowledged before me by means of physical presence
OR online notarization on this _____ day of _____ 202__,
by _____ as _____ of ISLAND
HOMES OF THE KEYS, INC, a New Jersey corporation who is personally known to me OR
 who produced _____ as identification, and who did
OR did not take an oath.

Notary Public, State of New Jersey
My commission expires: _____

On the ____ day of _____, 202__, the City Council of the City of Marathon approved this Agreement by Resolution No. _____.

CITY OF MARATHON,
a Florida municipal corporation

By: _____
Luis Gonzalez, Mayor

ATTEST:

Diane Clavier, City Clerk

**APPROVED AS TO FORM AND LEGALITY FOR THE USE AND RELIANCE OF THE
CITY OF MARATHON, FLORIDA ONLY:**

Steven Williams, City Attorney

EXHIBITS TO SEAWATCH DEVELOPMENT AGREEMENT

EXHIBIT A: SURVEY AND LEGAL DESCRIPTION OF PROPERTY

EXHIBIT B: WARRANTY DEED

EXHIBIT C: ~~SITE PLAN~~ DCA AGREEMENT

EXHIBIT A

SURVEY AND LEGAL DESCRIPTION OF PROPERTY

EXHIBIT B
WARRANTY DEED

EXHIBIT C

SITE PLAN - DCA AGREEMENT

Planning Commission Staff Report



Meeting Date: April 19, 2021
To: Planning Commission
From: Brian Shea, Planning Director

Agenda Item:

An Ordinance Of The City Of Marathon, Florida; Amending Section 104.62, “Mobile Vendor Food Units”; Providing For The Repeal Of All Code Provisions And Ordinances Inconsistent With This Ordinance; Providing For Severability; Providing For Transmittal To The State Department Of Economic Opportunity; Providing For Inclusion In The Code; And Providing For An Effective Date.

RECOMMENDATION:

Staff recommends APPROVAL

REQUEST:

The draft Ordinance seeks to update the Specific Use Regulations code sections pertaining to Mobile Vendor Food Units.

AUTHORITY

Section 102.26. Planning Commission Recommendation.

- A. *Authority:* The PC shall consider a proposed text amendment at the request of the Council.
- B. *Review Criteria:* The PC shall review such proposed amendment, based upon the criteria listed below:
1. The need and justification for the change;
 2. The consistency of the proposed amendment with the Comprehensive Plan; and
 3. Whether the proposed change shall further the purposes of the LDRs and other City Codes, regulations and actions designed to implement the Comprehensive Plan.
- C. *Findings:* The PC shall make a finding of whether the proposed amendment is consistent with the Comprehensive Plan and a recommendation shall be prepared and forwarded to the Council, indicating if the proposed amendment should be:
1. Approved as proposed;
 2. Approved with amendments proposed by the PC; or
 3. Denied

Section 102.27. - Hearing(s) by Council.

- A. The decision to process a text amendment is within the sole discretion of the Council.

B. For any proposed text amendment, the Council shall hold a minimum of two (2) public hearings, conforming to the requirements of Fla. Stat. Ch. 166, before acting on the amendment.

Section 102.28. - Action by Council.

Following the public hearings, the Council shall make a finding of whether the proposed text amendment is consistent with the Comprehensive Plan and may approve, approve with changes, or deny the proposed amendment.

As noted, review of proposed LDR text amendments is to be made based on three basic criteria: need and justification for change, consistency with the adopted Comprehensive Plan, and whether the proposed amendment will further the purposes of the LDRs, other ordinances, and actions taken to further the implementation of the Comprehensive Plan. The Planning Commission, in reviewing the proposed amendment, may recommend approval as is, approval with changes, or denial to the City Council.

ANALYSIS OF LAND DEVELOPMENT REGULATION TEXT AMENDMENTS:

Section 102.26(B) of the Land Development Regulations requires that the following standards and criteria be considered for any proposed text amendment. Each criteria and explanation of relevance to this proposed amendment are listed below:

- A. The need and justification for the change;**
Florida Statute 509.102 was adopted preempting regulation of mobile food dispensing vehicles involving licenses, registrations, permits, and fees to the state. The City of Marathon must amend our regulations to align with this preemption.

- B. The consistency of the proposed amendment with the Comprehensive Plan; and**
This Ordinance is consistent with the goals, objectives or policies identified in the Comprehensive Plan.

- C. Whether the proposed change shall further the purposes of the LDRs and other City Codes, regulations and actions designed to implement the Comprehensive Plan.**
The proposed changes further the goals of the Comprehensive Plan, LDRs, and support the intent of other Components of the City's Code of Ordinances.

CONCLUSION:

Staff indicates that the proposed text amendments are consistent with the standards and tenants of Chapter 163 and 380 F.S., and the City's Comprehensive Plan adopted under the requirements of these statutes and rules.

RECOMMENDATION:

Staff recommends APPROVAL.

Sponsored by: Garrett
Introduction Date: XXX
Public Hearing Dates: XXX
Enactment Date: XXX

**CITY OF MARATHON, FLORIDA
ORDINANCE 2021-XXX**

**AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA;
AMENDING SECTION 104.62, “MOBILE VENDOR FOOD UNITS”;
PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND
ORDINANCES INCONSISTENT WITH THIS ORDINANCE;
PROVIDING FOR SEVERABILITY; PROVIDING FOR TRANSMITTAL
TO THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY;
PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR
AN EFFECTIVE DATE.**

WHEREAS, the Legislature of the State of Florida in Chapter 166 – Municipalities, Florida Statutes, confers upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, Florida Statute 509.102 Mobile food dispensing vehicles; preemption was adopted; and

WHEREAS, the City Council has determined it appropriate to adopt regulations that are consistent with the Florida Statute.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE
CITY OF MARATHON, FLORIDA, AS FOLLOWS:**

Section 1. The above recitals are hereby confirmed and adopted.

Section 2. Land Development Code Chapter 104 Specific Use Regulations, Article 1. – General Provisions, is hereby amended by the following amendments:

Section 104.62. - Mobile Vendor Food Units.

The following regulations are established for non-motorized food vendor carts, which are small, lightweight, and often mounted on a single-axle (two-wheeled) chassis and mobile food units, which are vehicle mounted and are self-propelled, and designed to be movable from place to place. Sale of products other than food ~~under the license authorized in this section~~ is prohibited.

Mobile vendor food units (MVFU) are permitted pursuant to Table 103.15.1 as of right on developed private property in all commercial and industrial districts with the written consent of the property owner, subject to the following requirements:

~~A. Licenses for Mobile Vendor Food Units shall be issued by the City of Marathon Planning Department and generally be limited to a total of seven (7) licenses. An individual license shall not be utilized at two (2) locations (or vehicles) simultaneously. All licenses shall be subject to annual renewal and approval and shall not be transferable. The number of licenses and associated license fees may be modified by the City Council from time to time by affirmative Resolution of the City Council.~~

B.A. *MVFUs Utilizing Fixed Locations.*

1. *Location:* Mobile vendor food units shall be placed only on properties with a legally operating permanent business during that business's normal hours of operation and shall comply with the following location criteria:

a. The mobile vendor food units shall not be located within any required front or street side yard setback; and

b. The mobile vendor food units shall not interfere with vehicular and pedestrian movement or visibility, block required sight distances, or damage landscaped areas.

c. Shall be able to provide adequate additional parking spaces so parking spaces required for the host business location are not impacted.

2. *Limited Hours of Operation:* ~~An~~ an vendor licensed under 104.62 ~~B~~ MV**FU** may only remain at an approved private property location (set out in Subsection 104.62 ~~B.A.~~ 1.) for a period not to exceed eight (8) hours in a 24-hour period. ~~An~~ MVFU may be approved to operate at multiple locations during different time periods.

3. *Storage:* The food vendor shall remove the mobile vendor food unit from the point of sale or store the unit out of public view at the end of each business day.

4. *Trash Receptacles:* The food vendor shall provide receptacles for litter associated with the sales activity. The food vendor shall leave the site in a clean state at the end of each business day.

C.B. *MVFUs Utilizing Public Rights-Of-Way.*

1. The mobile vendor food units may operate within the City of Marathon rights-of-way so long as their activity does not disrupt the normal flow of vehicular traffic.

2. An MVFU licensee shall not remain at an individual location on the City's rights-of-way for a period longer than 15 minutes.

3. MVFUs ~~licensed under 104.62 C.~~ shall only be allowed to operate during daylight hours (dawn to dusk).

4. While stationary and conducting business, an MVFU shall turn off all music or other amplified noise.

D. Exceptions.

~~1. Hot Dog Carts may operate without a City license under this section as long as said unit is associated on the same property with a restaurant licensed by the State of Florida and is itself licensed by the State.~~

E. Additional Permits and licenses. All MVFUs ~~licensed under this Section~~ shall obtain all necessary permits, licenses, and inspections required by the Florida Department of Agriculture and Consumer Services, Florida Department of Health, and Florida Department of Business and Professional Regulation, prior to conducting any business approved under this Section.

Section 4. The Provisions of the Marathon Code and all Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 5. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 6. It is the intention of the City Council and it is hereby ordained the provisions of this Ordinance shall become and be made part of the Marathon Code, that sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 7. This Ordinance shall become effective immediately upon adoption on second reading.

ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS ____ DAY OF _____, 2021.

THE CITY OF MARATHON, FLORIDA

Luis Gonzalez, Mayor

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

Diane Clavier, City Clerk

(CITY SEAL)

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE
AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:**

City Attorney
Steven T. Williams

DRAFT

PLANNING COMMISSION AGENDA STATEMENT

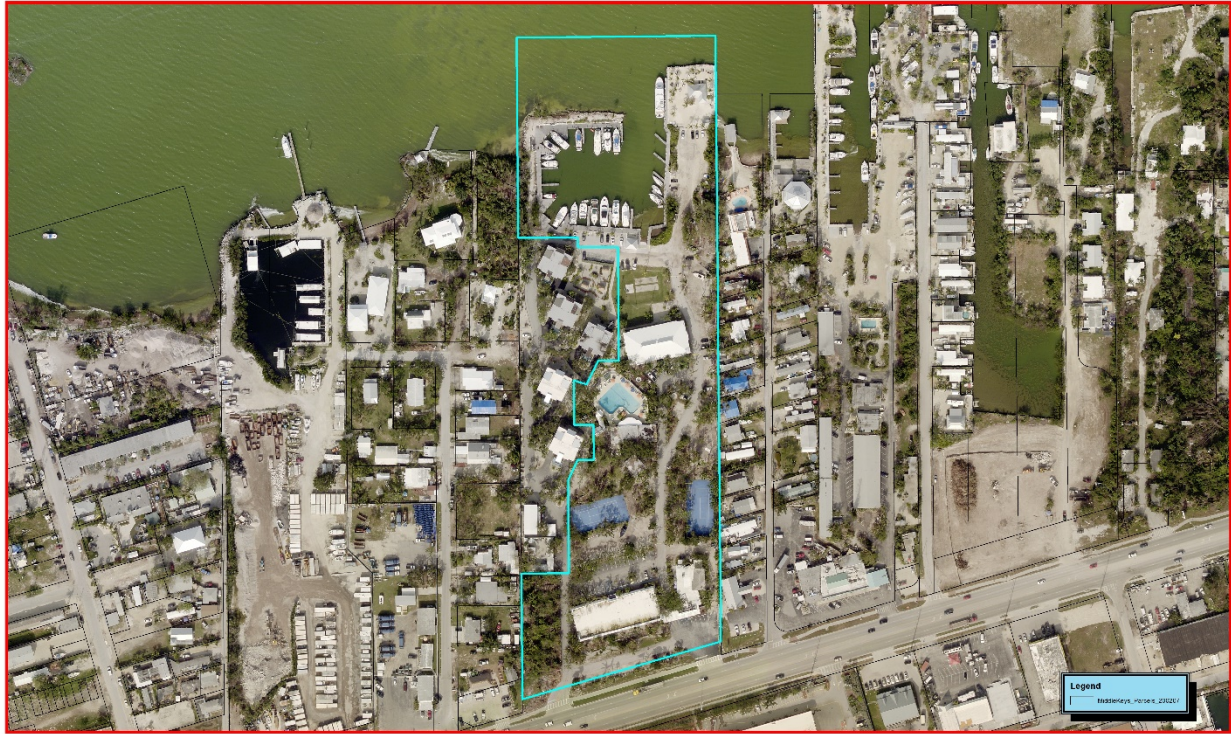


Meeting Date: April 19, 2021
To: Honorable Mayor and Council Members
From: Brian Shea, Planning Director
Through: George Garrett, City Manager

Agenda Item: Consideration Of A Request A Conditional Use Permit And A Development Agreement, For Insite Marathon Key LLC, Pursuant To Chapter 102, Articles 8 And 13 Of The City Of Marathon Land Development Regulations (“The Code”) Entitled “Development Agreement” And “Conditional Use Permits” Respectively For The Redevelopment And Expansion Of An Existing Hotel; Located At 4590 Overseas Highway; Which Is Legally Described As Part Of Government Lot 2 And Adjacent Bay Bottom And Adjacent Part Of Us1 State Road 5 And Bay Bottom Adjacent To Government Lot 2, Section 10, Township 66, Range 32, Key Vaccas, Marathon, Monroe County, Florida; Having Real Estate Numbers 00103150-000000, Nearest Mile Marker 50.

APPLICANT/OWNER: Insite Marathon Key, LLC
AGENT: Jim Saunders, Bayview Development
LOCATION: The project site is located at 4590 Overseas Highway nearest mile marker 50. See Figure 1.

Figure 1
Project Site



City of Marathon, Florida
Official Map Product
Banana Bay

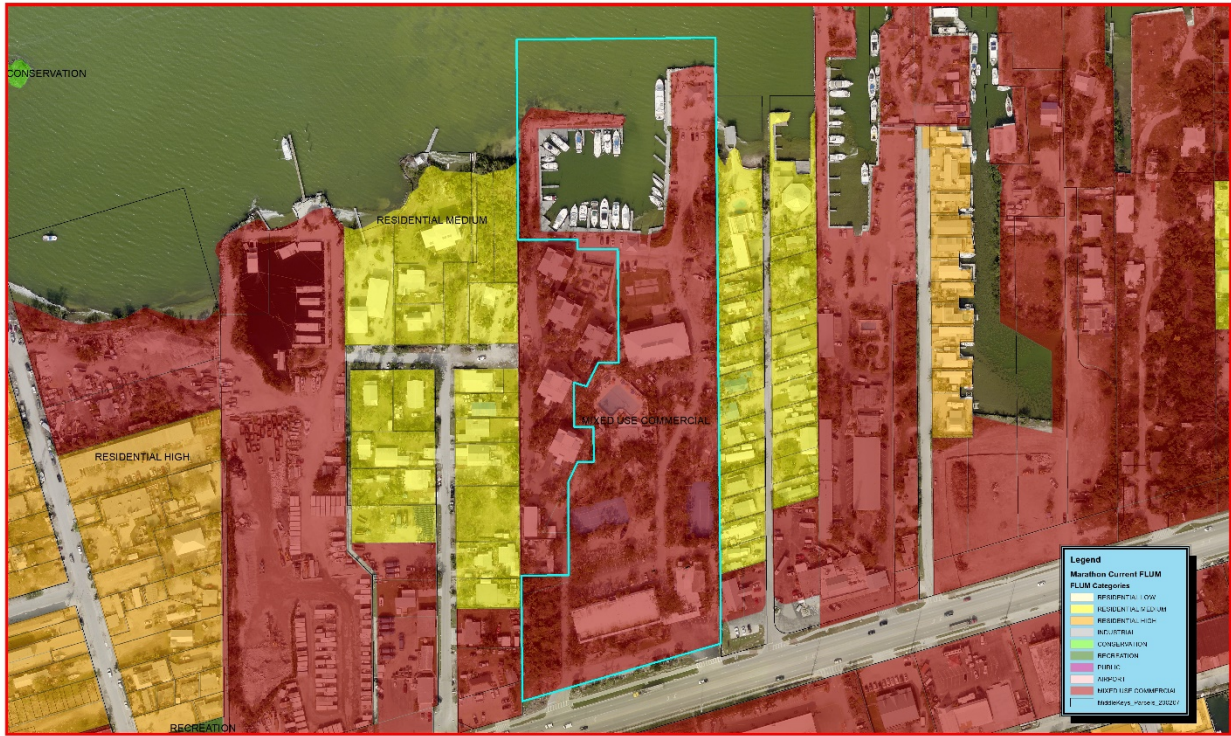


0 140 280 560 840 1,120 Feet

REQUEST: A Conditional Use Approval and Development Agreement for redevelopment of the subject property having the real estate number 00103150-000000.

FUTURE LAND USE MAP DESIGNATION:
Mixed Use Commercial (MU-C). See Figure 2.

Figure 2
Future Land Use Map



Legend

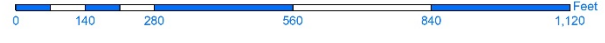
Marathon Current PLUM

PLUM Categories

- RESIDENTIAL LOW
- RESIDENTIAL MEDIUM
- RESIDENTIAL HIGH
- INDUSTRIAL
- CONSERVATION
- RECREATION
- FOREST
- AIRPORT
- MIXED USE COMMERCIAL
- BUSINESS/PROFESSIONAL

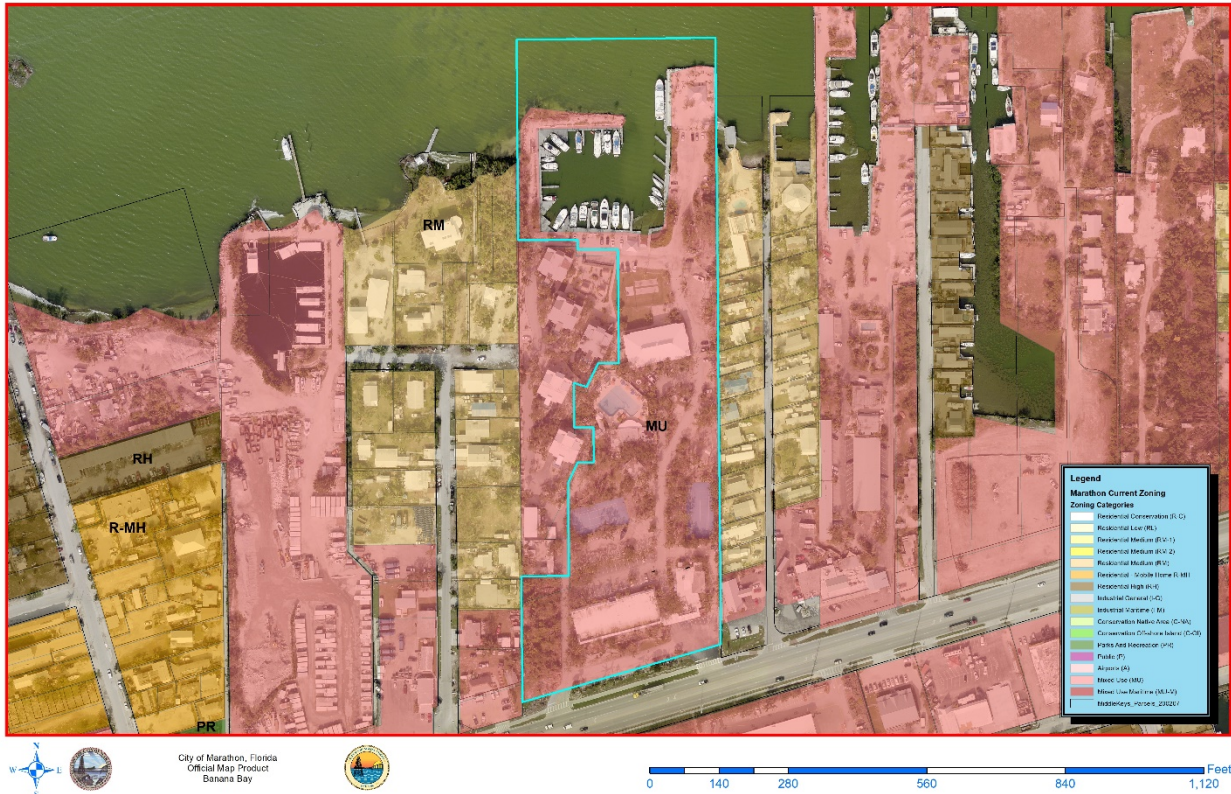


City of Marathon, Florida
 Official Map Product
 Banana Bay



ZONING MAP DESIGNATION:
Mixed Use (MU). See Figure 3.

Figure 3
Zoning Map



LOT SIZE:

Total acreage: approximately 8.34 acres or approximately 363,697 square feet.

SURROUNDING ZONING AND USES:

	<u>Zoning</u>	<u>Use</u>
North	N/A	Gulf of Mexico
East	Residential Medium (RM) and Mixed Use (MU)	Blackfin Resort and Marina, Residences of 46th Street
South	Mixed Use (MU)	Home Depot
West	Residential Medium (RM) and Mixed Use (MU)	Marathon Key Beach Club and Residences of 43rd Street

EXISTING CONDITIONS:

BACKGROUND:

The proposed project is a redevelopment of the subject property to include the construction of new transient units, restaurant, and ancillary structures in the Mixed-Use zoning classification. This report addresses the Conditional Use application. **All conditions of the Conditional Use approval will have to be met before any building permit will be approved.**

EVALUATION FOR COMPLIANCE WITH THE LAND DEVELOPMENT REGULATIONS:

The criteria for evaluating a Conditional Use Approval are outlined in Chapter 102, Article 13, Conditional Use Permits, in the City of Marathon Land Development Regulations.

CRITERIA

A. The proposed use is consistent with the Comprehensive Plan and LDRs;

The proposed redevelopment project is located within the Mixed Use (MU) Zoning District. Per Chapter 103, Article 2, Section 103.09 of the Land Development Regulations, the district is designed to “accommodate a wide variety of commercial and retail activities that will result in the most efficient and attractive use of the City’s historic business district and the US1 Corridor, in an effort to recognize the role of US1 as the City of Marathon’s ‘Main Street.’ The MU district also provides for large-scale retail and commercial business opportunities in other areas, including larger shopping center, specialty shopping centers, individual multi-tenant commercial buildings, automotive services and sales, fast food restaurants, affordable housing uses, transient lodging and other retail establishments that serve the community at large”.

The proposed project consists of the redevelopment and expansion of an existing commercial use and is consistent with the Mixed-Use Zoning District. Section 103.15 establishes whether specific uses are allowed as of right, limited, accessory or conditional uses, through Table 103.15.2. That table shows that Hotel/Motel/Resort lodging uses are allowed as Conditional Uses in the MU district. Conditional Use review is intended to allow a broader view of the potential impacts of a project on adjacent uses and on City concurrency related resources such as road capacity, solid waste, sewer, and potable water availability.

Table 103.15.2 in the Land Development Regulations establishes constraints on density and intensity allowed in the MU district based on the types of uses proposed. Using the property area, the proposed uses only require 63% of the site. Table 103.15.3 further qualifies the allowed range of intensities based on the intensity of retail use. For the purposes of review Commercial Recreation, the strictest FAR was used to assess the commercial square footage on the site as a whole. Even using this strictest criteria, the proposed project is compliant using only 73% of the site.

Development Type	Proposed
Transient	127
Commercial Square footage	6871

Therefore, the request is ***in compliance*** with the requirements of these sections.

B. The proposed use is compatible with the existing land use pattern and future uses designated by the Comprehensive Plan;

The proposed project is located within the Mixed-Use Commercial Future Land Use District. Policy 1-3.1.4 of the City of Marathon Comprehensive Plan states that the “principal purpose of the Mixed-Use Commercial land use category is to provide for the establishment of mixed-use development patterns and to recognize established mixed use development patterns within the City.” The proposed project includes a redevelopment of an existing conditional use (Hotel, Motel, Resort) into a larger version of said conditional use (Hotel, Motel, Resort), which is consistent with the Mixed-Use classification.

The existing land use pattern in the project vicinity consists of residences and another resort use to the east, Home Depot to the south, the Gulf of Mexico to the north, and residential uses to the west.

Otherwise, the redevelopment of the site will result in significant improvement to the site development quality, including upgraded landscaping, stormwater management, and architecture. The improvements are expected to have a positive benefit on the surrounding uses and the City of Marathon.

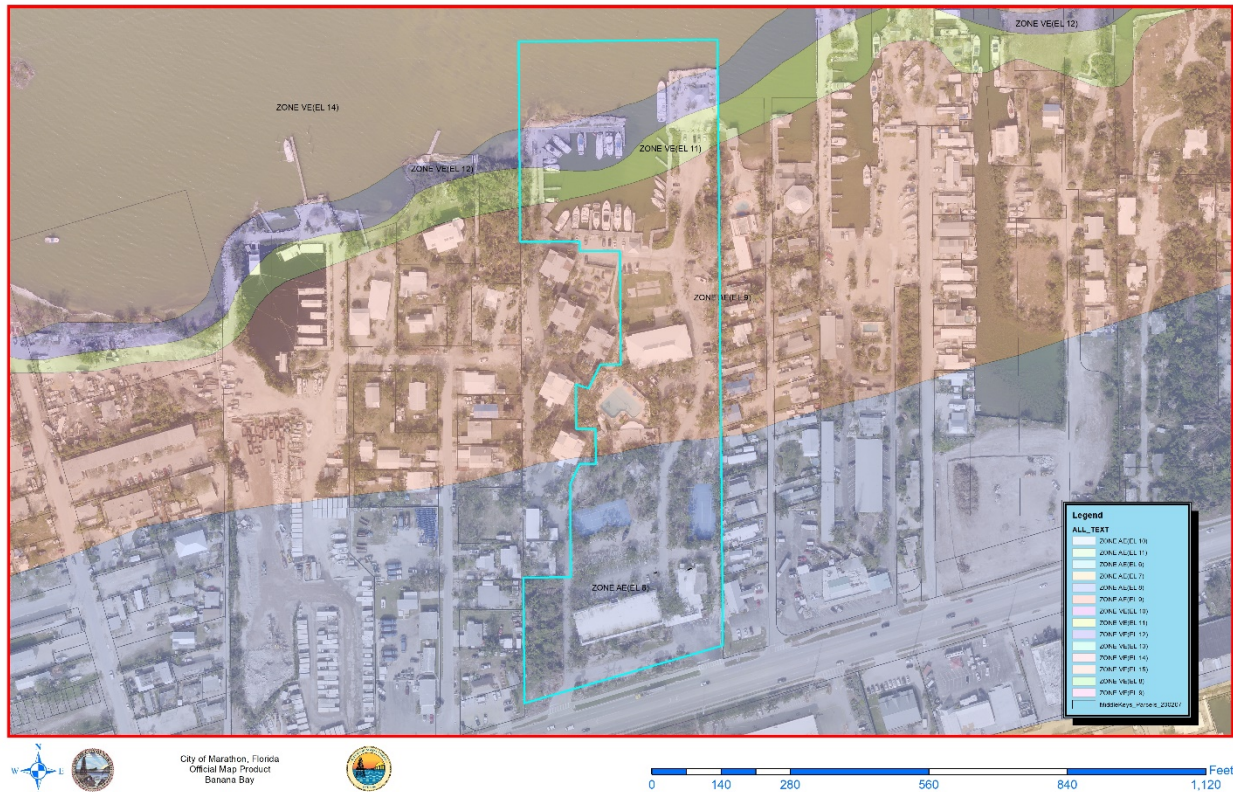
Therefore, the request is ***in compliance*** with the requirements of these sections.

C. The proposed use shall not adversely affect the health, safety, and welfare of the public;

The proposed use is a redevelopment and expansion of an existing use which has not had any known impact on the health, safety, and welfare of the public. No new adverse impacts are expected to arise with the redevelopment. The infrastructure on the site will be upgraded and the site heavily landscaped, creating an improvement to the overall site.

Plans submitted with the project are suitable for the Conditional Use Approval as they relate to Chapter 107, Article 12, 100 Year Floodplain. Final review of floodplain compliance will occur as part of building permit issuance.

**Figure 5
Flood Maps**



Therefore, the request is ***in compliance*** with the requirements of these sections.

D. The proposed conditional use minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment:

The existing conditions maps indicate the subject area is designated as developed. Further improvements to water quality are expected to arise from stormwater improvements to the site, which should provide up-to-date treatment and eliminate any existing discharges to surface waters. The applicant has submitted preliminary stormwater plans suitable for the Conditional Use Application, and final plans are required prior to building permit issuance.

Site landscaping will be selected from Table 107.68.1, Appendix A, Article 8, Section 107 of the City of Marathon Code of Ordinances. The native vegetation will improve the environmental quality of the site and reduce irrigation needs. The applicant has submitted a detailed vegetation plan that is compliant with the landscaping requirements. The site is already heavily vegetated with mature trees. All reasonable effort should be made to work around the existing vegetation where possible. Where not possible, the next option should be to relocate the existing vegetation on site. When that is not possible, then mitigation planting should occur at a rate of three trees for every one tree removed.

III. Tree Removal Table (Section 106.11.1)

Common Name	Botanical Name	4'-10' O.A. HT.	6'-10' C.T.	15' - 18' C.T.	20' over C.T.	Greater than 4" DBH	Status	Total Number Replace/ X3
Florida Thatch Palm	<i>Thrinax radiata</i>	87	51	51	46	-	T, RT	705
Sabal Palm	<i>Sabal palmetto</i>		4	3		-	RT	21
Keys Thatch Palm	<i>Leucothrinax morrisii</i>		3			-	E, RT	9
Buttonwood	<i>Conocarpus erectus</i>					3	RT	9
Black Mangrove	<i>Avicennia germinans</i>					1	RI, RT	3
Blolly	<i>Guapira discolor</i>					10	RT	30
Caper, Limber	<i>Cynophalla flexuosa</i>					1		3
Dogwood, Jamaican	<i>Piscidia piscipula</i>					10	RT	30
Fig, Shortleaf	<i>Ficus citrifolia</i>					10		30
Gumbo Limbo	<i>Bursera simaruba</i>					62	RT	186
Inkwood	<i>Exothea paniculata</i>					9	RI	27
Ironwood, Black	<i>Krugiodendron ferreum</i>					1	RI, RT	3
Mahogany	<i>Swietenia mahagoni</i>					2	T	6
Milkbark	<i>Drypetes diversifolia</i>					1	E	3
Pigeon Plum	<i>Coccoloba diversifolia</i>					28	RT	84
Poisonwood	<i>Metopium toxiferum</i>					2	RT	6
Satin leaf	<i>Chrysophyllum oliviforme</i>					1	RT	9
Stopper, Spanish	<i>Eugenia foetida</i>					3	RT	3
							TOTAL	1,167

Therefore, with conditions, the request is **in compliance** with the requirements of these sections.

- Staff requires that upon planning review, if the redevelopment is found to have any effect on the Habitat of the Eastern Indigo Snake, Stock Island Tree Snail, or Tree Cactus, then the prescribed protection measures must be undertaken, and the information poster posted on site.
- Applications and approvals must be submitted prior to permit issuance for all external agencies, including but not limited to Army Corps of Engineers (ACOE), Department of Environmental Protection (DEP), South Florida Water Management District (SFWMD).
- A final landscaping and mitigation plan must be submitted prior to permit issuance. Such a plan should prioritize the saving of the specimen trees on site.

E. Satisfactory provisions and arrangements have been made concerning the following matters, where applicable:

1. Ingress and egress to the property and proposed structures thereon with particular reference to automotive, bicycle, and pedestrian safety and convenience, traffic flow and control and access in cases of fire or catastrophe;

The applicant has provided a breakdown of the proposed occupancy of the onsite buildings. The “Trip Generation Analysis” schedule provided in the Traffic Study indicates that there will be an increase in trip generation from the existing use to the proposed use for the Motel/Hotel/Resort. The traffic study determined that based on the expected trip generation for the project, there would be no adverse effect on the operating characteristics of U.S. 1. The submitted study finds that the proposed expansion will not inhibit the safe flow of traffic traveling through the City of Marathon.

Land Use	Size	Daily Trips	AM Peak Hour Trips			Mid-Day Peak Hour Trips			PM Peak Hour Trips		
			In	Out	Total	In	Out	Total	In	Out	Total
Existing Development											
Resort Hotel	58 Rooms	259	14	5	19	15	14	29	10	14	24
Marina - Wet Slips	34 Berths	88	1	1	2	4	3	7	4	3	7
Single-Family Housing	5 DU	47	1	3	4	3	2	5	3	2	5
Sub Total		394	16	9	25	22	19	41	17	19	36
Proposed Development											
Resort Hotel	127 Rooms	566	30	11	41	32	32	64	22	30	52
Marina - Wet Slips	34 Berths	88	1	1	2	4	3	7	4	3	7
Single-Family Housing	1 DU	9	0	1	1	1	0	1	1	0	1
Sub Total		663	31	13	44	37	35	72	27	33	60
Difference (Proposed - Existing)		269	15	4	19	15	16	31	10	14	24

Compiled by: KBP Consulting, Inc. (October 2020).
Source: ITE Trip Generation Manual (10th Edition).

Ingress and egress to the property is being provided through existing driveways onto US1. The trip generation analysis of the development shows that the project is anticipated to generate 663 daily vehicle trips, 44 AM peak hour vehicle trips (31 inbound and 13 outbound), 72 midday peak hour vehicle trips (37 inbound and 35 outbound) and 60 vehicle trips during the PM peak hour (27 inbound and 33 outbound).

Section 107.43 requires sight triangles where the access drive intersects with the street. Clear sight triangles must be shown on the site plan at time of building permit issuance.

Therefore, with conditions, the request is ***in compliance*** with the requirements of these sections.

- Clear sight triangles must be shown on the site plan at time of building permit issuance.
- Any change to US1 access will require permits from FDOT.
- All conditions of the Fire Marshal must be met prior to permit issuance.

2. Off-street parking and loading areas where required, with particular attention to item 1 above;

Parking requirements are outlined in Section 107.46 (Parking Schedule). The following table shows the parking requirement for the commercial uses on the parcel:

Uses	Minimum Parking Spaces Required
Marina	1 per 2 wet slips
Hotel or Motel	1 per every 3 employees, plus 1 per guest room, required parking for accessory uses
Restaurant	1 per 3 seats, plus required stacking spaces, plus 1 per every 2 employees on the largest shift

Section 107.50 allows for the reduction in the numbers of required parking spaces, which have different peak hour demands. As with previous projects of a similar nature, restaurant and spa

guests are primarily guests of the hotel.

Section 107.52 includes a requirement that one handicapped space be provided for every 25 spaces required. Of the 169 proposed spaces, 7 handicapped spaces are required, and 5 are shown on the plans. The two additional ADA spaces must be shown on the plans prior to permit issuance. Parking space sizes are 9' x 18' for 90-degree parking, and handicapped spaces are 12' x 21' as required by Code. The proposed site plan is consistent with the code requirements for parking and aisle width.

The Code also requires bicycle parking to be provided for educational facilities, multifamily dwellings, commercial, institutional, and industrial uses, as well as all developments adjacent to a bike path, at a rate of one space for every ten parking spaces, per Section 107.48. The final site plan must show a minimum of 17 bicycle parking spaces.

Therefore, with the conditions noted above, the request is **in compliance** with the requirements of these sections.

3. The noise, glare, or odor effects of the conditional use on surrounding properties;

The proposed project consists of redevelopment of an existing commercial use. New lighting will be necessary for this project. The applicant has provided a typical lighting plan which conforms to the City of Marathon LDR's. A more detailed lighting plan must be submitted for permitting purposes. The applicant's detailed plans should achieve the net result of no detrimental noise, glare or odors being generated by any of the uses. The addition of the dense landscape buffering around the site will reduce the noise, odor, and glare.

Therefore, with conditions, the request is **in compliance** with the requirements of this section.

- A detailed lighting plan must be submitted before the project is permitted.

4. Refuse and service areas, with particular reference to locations, screening, and Items 1 and 2 above;

Section 107.39 requires that all dumpsters and recycling bins be fully enclosed and screened. The site plan indicates that the dumpsters are screened.

Therefore, the request is **in compliance** with the requirements of this section.

5. Utilities, with reference to location and availability;

Chapter 107, Article 13, establishes the City's Concurrency Management and certification requirements. This Conditional Use constitutes the City's Concurrency Level of Service Certificate, as follows:

- Wastewater: The applicant has provided the Utilities department with flow calculations and will be assessed additional impacts and wastewater fees.
- Water: The Florida Keys Aqueduct Authority currently provides potable water for the

- facility. Staff recommends a separate meter for irrigation, landscaping, and pool.
- Solid Waste: Marathon Garbage Service currently provides solid waste disposal.
- Surface Water: The applicant has provided stormwater design information suitable for the Conditional Use application review which demonstrates compliance with City standards. However, a final stormwater plan will be required for building permit issuance.
- Recreation and Open Space: This redevelopment will have a de minimis impact on recreation and open space.
- Roadways: The applicant is redeveloping the site with a higher intensity than was contained within the prior development; therefore, a traffic study was completed to analyze the impact on transportation facilities.
- Educational Facilities: This redevelopment will have a de minimis impact on educational facilities as transient uses have little use of schools.

Therefore, with conditions, the request is ***in compliance*** with the requirements of these sections.

- City approval is required for the stormwater management system prior to Building Permit Approval.
- The City recommends a separate meter for irrigation, landscaping, and pool.
- The City will require civil plans for capacity requirements, anticipated flows, including pool and accessory structures, prior to permit issuance. The plans should show pipes and line sizes, method of transmission, and NPDES, notice of intent.

6. Screening and buffering with reference to type, dimensions and character;

Table 107.66.1 establishes project boundary buffer standards applicable to the project. The subject parcel is zoned MU and is bordered to the East by properties zoned RM. Therefore, a High buffer type is required. This buffer is to be 20' wide, however has been reduced through TRC review in half based upon denser landscaping being planted in these areas. The preliminary landscape plans show that this buffer is maintained. The final landscape plans must be approved by the City Biologist. Although the neighboring parcel is also zoned MU, the applicant has proposed a 10' landscape buffer to screen the development from Marathon Key Beach Club.

Section 107.71 A. requires that parcels with a MU zoning designation provide a Type 1 Streetscape Treatment for all parcels along US 1. The proposed landscape plan exceeds the minimum requirements. According to the Code, four canopy trees shall be planted in and about access points. In addition, smaller accent trees shall be planted every 120 feet and staggered midway between the large canopy trees. Additionally, all parking not located to the rear of buildings shall be screened from the right-of-way by a landscaped buffer along US1, including a continuous hedge or combination hedge and earth berm providing a three-foot high visual screen within two (2) years of planting.

Table 103.15.2 outlines setback requirements in the MU district as follows: front yard 0 – 30'; side yard 1, 0 – 10; interior side yard, 10; and, street side, 0-5'. Accessory structures, including pools, have a 10' setback.

Table 106.28.1 outlines setbacks requirements for a principal structure on a manmade canal as 20'

measured from the Mean High-Water Line, and that a principal structure on open water altered shoreline with a mangrove fringe is 30' measured from MHWL or the landward extent of the mangrove fringe.

This plan shows an approximate 25' setback on the front yard, 10' setback on the western side, and 10' setback on the eastern side and 20' setback from the altered shoreline, measured from MHWL or mangrove fringe, and a 50' rear setback.

Setback	Required	Required Landscape	Proposed	Compliant
Front	30	10	25	Y
East Side	10	20*	10	Y
West Side	10	N/A	10	Y
Shoreline	20	N/A	20	Y

*The east side landscape setback was reduced in half per TRC review and the planting of denser vegetation.

Parking area landscaping is required by Section 107.66 of the Code. The City Biologist has reviewed the submitted parking area landscape plan and has found it to be in compliance with the code.

Therefore, the request is ***in compliance*** with the requirements of these sections.

7. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety and compatibility with surrounding uses;

A review of sign requirements at this stage in development approval is not necessary. Signs for the project will be reviewed prior to issuance of a building permit according to Chapter 107, Article 7, Signs.

Article 107.54 establishes criteria for lighting, including light pole light limitations and other technical criteria. Final lighting plans will be submitted along with final landscaping plans and will include verification from the landscape architect that all provisions of the article are met.

Therefore, the request is ***in compliance*** with the requirements of these sections.

- All signs will be reviewed and approved for compliance with the City of Marathon LDR's.
- A final lighting plan must be submitted prior to building permit issuance.
- A final landscaping plan must be submitted prior to building permit issuance.

8. Required yards and other open space;

Section 106.16 established required open space for the project. The majority of the site is scarified; therefore, a twenty percent open space requirement applies. According to calculations provided by the applicant, 194,372.2 square feet of pervious area (including landscape area), or 53.43% of

the site, is provided as open space. This exceeds the open space requirement.

Therefore, the request is ***in compliance*** with the requirements of these sections.

9. General compatibility with surrounding properties; and

The project is a redevelopment of an existing use. Adjacent uses include residential uses, a bank, a large retail store, and other resort and restaurant uses. A redevelopment and expansion of the hotel use is expected to be fully compatible with these uses. The proposed project represents improvement to the current state of prior development and is expected to increase compatibility with surrounding properties.

Section 107.40 restricts the height of buildings to 42' as measured from the crown of the roadway or unimproved grade. The site plans show that the majority of buildings are well under 42', as they are single story cottage structures. The restaurant building is an elevated structure to meet flood but is still proposed to be under 42'.

Therefore, the request is ***in compliance*** with the requirements of these sections.

10. Any special requirements set forth in the LDRs for the particular use involved.

Section 104.25 Hotels or Motels contains special requirements.

A. General Provisions:

1. Reserved.

2. Each hotel or motel shall comply with all mandatory hurricane evacuation requirements set forth by the City for hotel, motel, and other transient uses.

3. Each hotel or motel shall establish and maintain shuttle transport services to airports and tourist attraction individually or in conjunction with other hotel or motel operators.

4. Except as provided in Subsection (a), all hotel or motels shall provide on- or off-site employee housing living space in an amount equal to a minimum of 20 percent (as may be adjusted from time to time by Council policy to reflect economic conditions) of the approved floor area in guest units; and such housing shall be of any of the following types as outlined in (b) below:

(a) An exception to the requirement for on- or off-site employee housing living space for hotel/motel redevelopment may be recommended by the Planning Director, the Planning Commission, and approved by the City Council as part of a conditional use and/or development agreement when the following criteria are met:

1. No increase in the number of hotel/motel transient units (unit as described in Subsection 104.25A.5. of the LDRs) if existing hotel/motel unit density is non-conforming as defined in Chapter 108, Article 3 of the LDRs and as specifically outlined in Section 108.12 of the LDRs;

2. No use of transferable building rights (TBRs) (as described specifically in Subsection 107.14B. of the LDRs);

3. **No significant change (+ or - 10%) in the current project floor area (Floor area as defined in Chapter 110, Article 3 of the LDRs);**

4. No significant difference between the current and proposed uses of floor area;
5. No effort to move units off-site through TBRs as part of the proposed project, though they may be documented and preserved for future use; and
6. No significant change or increase in the size or type of project site amenities.

(b) Housing types:

1. Dormitory;
 2. Studio; or
 3. One (1) or two (2) bedroom units.
5. All entrances to a hotel or motel unit shall share the same key or means of controlling access so that the hotel or motel room as defined herein is not divisible into separately rentable units.

The applicant is not proposing any affordable housing on site. The manager's cottage may be deed restricted to work towards meeting this criteria. With the above-mentioned ratio, the applicant must provide 15,822 square feet of affordable housing off site.

The following criteria are applicable to this redevelopment:

- There is no parking for boats/trailers on the property and it is not planned.
- The Applicant must obtain, and transfer all needed transient and affordable housing units, to be transferred via the Transfer of Building Rights (TBR's), BPAS process, or any other legally established process prior to building permit issuance. **THE APPROVAL OF THE REQUESTED CONDITIONAL USE PERMIT DOES NOT CONVEY OR GRANT A VESTED RIGHT OR ENTITLEMENT TO FUTURE ALLOCATIONS BY THE CITY OF ANY RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT.**
- As a condition of redevelopment, the developer and the City shall enter into a Development Agreement, in addition to compliance with all other provisions of the Code.
- Applicant shall comply with all mandatory hurricane evacuation requirements set forth by the City for hotel, motel, and other transient uses.
- Applicant shall establish and maintain shuttle transport services to airports and tourist attraction individually or in conjunction with other hotel or motel operators.
- Applicant shall provide on- or off-site employee housing living space in an amount equal to a minimum of 20 percent (as may be adjusted from time to time by Council policy to reflect economic conditions) of the approved floor area in guest units.
- All entrances to a hotel or motel unit shall share the same key or means of controlling access so that the hotel or motel room as defined herein is not divisible into separately rentable units.
- The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.

Therefore, with the conditions noted above, the request is **in compliance** with the requirements of

this section.

CONCLUSION:

The Conditional Use Approval is intended to allow for the integration of certain land uses and structures within the City of Marathon based on conditions imposed by the Council. Review is based primarily on compatibility of the use with its proposed location and with surrounding land uses. Conditional uses shall not be allowed where the conditional use would create a nuisance, traffic congestion, a threat to the public health, safety, or welfare of the community.

The proposed redevelopment consists of the replacement and enhancement of a long standing existing commercial use. As such the development, including the overall upgrading and improvement of the site, furthers the policies for development in the City and is consistent with the Comprehensive Plan and Land Development Regulations. The project is compatible with surrounding uses, and is not expected to create a nuisance, traffic congestion or threat to public, health, safety, or welfare.

RECOMMENDATION:

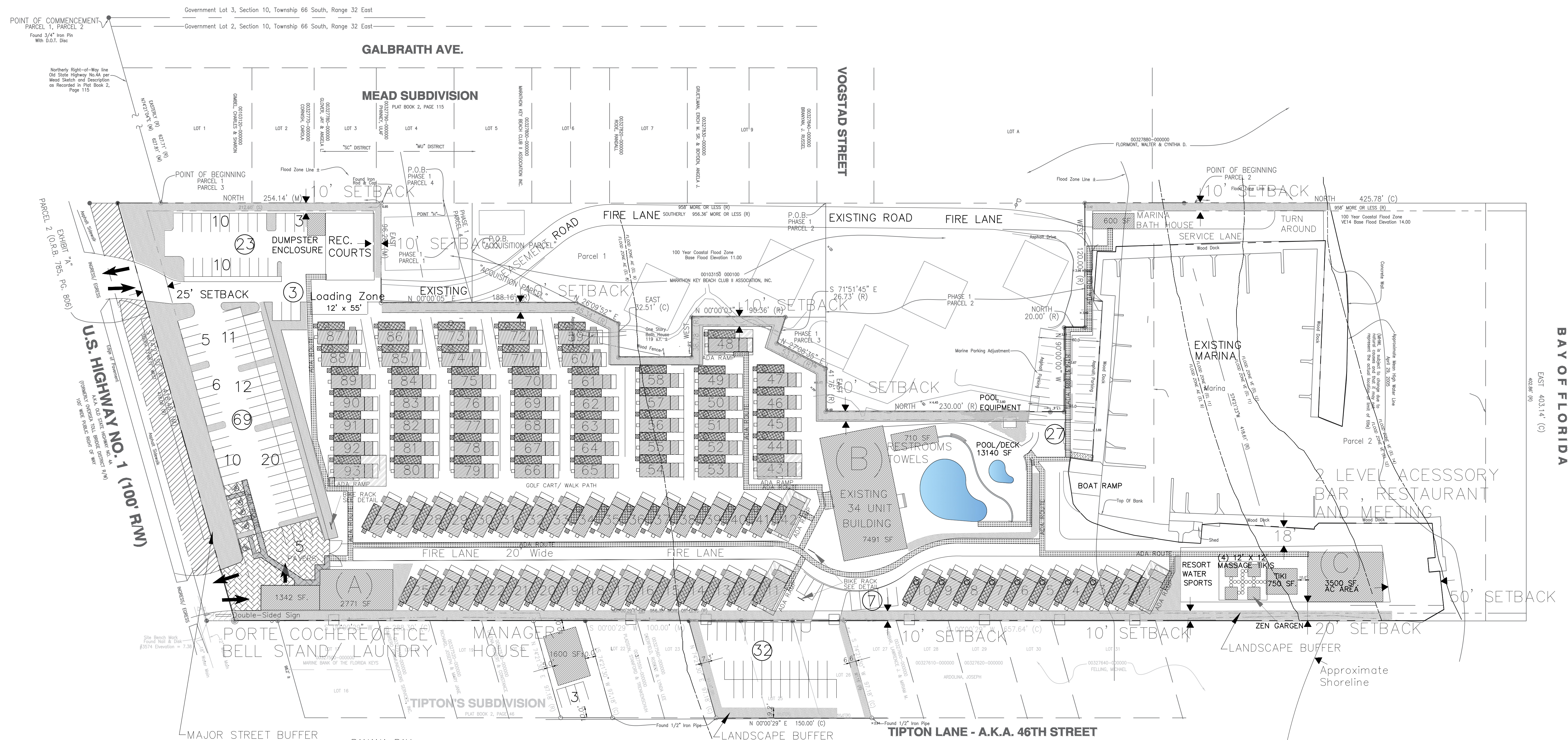
Planning staff recommends that the Planning Commission forward a recommendation of conditional approval of the Motel/Hotel/Resort to the City Council. The proposed conditions of approval are listed below.

Conditions of Approval

1. Staff requires that upon planning review, if the redevelopment is found to have any effect on the Habitat of the Eastern Indigo Snake, Stock Island Tree Snail, or Tree Cactus, then the prescribed protection measures must be undertaken, and the information poster posted on site.
2. Applications and approvals must be submitted prior to permit issuance for all external agencies, including but not limited to Army Corps of Engineers (ACOE), Department of Environmental Protection (DEP), South Florida Water Management District (SFWMD).
3. A final landscaping and mitigation plan must be submitted prior to permit issuance. Such a plan should prioritize the saving of the specimen trees on site.
4. Clear sight triangles must be shown on the site plan at time of building permit issuance.
5. Any change in access onto US1 will require permits from FDOT.
6. All conditions of the Fire Marshal must be met prior to permit issuance.
7. A detailed lighting plan must be submitted before the project is permitted.
8. City approval is required for the stormwater management system prior to Building Permit Approval.
9. The City recommends a separate meter for irrigation, landscaping, and pool.
10. The City will require civil plans for capacity requirements, anticipated flows, including pool and accessory structures, prior to permit issuance. The plans should show pipes and line sizes, method of transmission, and NPDES, notice of intent.
11. All signs will be reviewed and approved for compliance with the City of Marathon LDR's.
12. A final lighting plan must be submitted prior to building permit issuance.
13. A final landscaping plan must be submitted prior to building permit issuance.

14. There is no parking for boats/trailers on the property and it is not planned.
15. The Applicant must obtain, and transfer all needed transient and affordable housing units, to be transferred via the Transfer of Building Rights (TBR's), BPAS process, or any other legally established process prior to building permit issuance. THE APPROVAL OF THE REQUESTED CONDITIONAL USE PERMIT DOES NOT CONVEY OR GRANT A VESTED RIGHT OR ENTITLEMENT TO FUTURE ALLOCATIONS BY THE CITY OF ANY RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT.
16. As a condition of redevelopment, the developer and the City shall enter into a Development Agreement, in addition to compliance with all other provisions of the Code.
17. Applicant shall comply with all mandatory hurricane evacuation requirements set forth by the City for hotel, motel, and other transient uses.
18. Applicant shall establish and maintain shuttle transport services to airports and tourist attraction individually or in conjunction with other hotel or motel operators.
19. Applicant shall provide on- or off-site employee housing living space in an amount equal to a minimum of 20 percent (as may be adjusted from time to time by Council policy to reflect economic conditions) of the approved floor area in guest units.
20. All entrances to a hotel or motel unit shall share the same key or means of controlling access so that the hotel or motel room as defined herein is not divisible into separately rentable units.
21. The Conditional Use Development Order will constitute the Certificate of Concurrence for the project. The determination will be valid for one year.

Attachments:
Attachment A: Proposed Site Plan



SITE DATA

TIER III
 PARCEL ID: 00103150-000000
 ZONING: MIXED USE, R-MH (TIPTON LANE)

SHADED UNITS ADA ACCESSIBLE (6 UNITS) (1,11,12,43,48,93)

UNITS WITH ADA COMMUNICATION FEATURES:
 9,10,11,12,24,25,26,27,41,42,46,47,59,60,87,88,92,93 (18 UNITS)

BANANA BAY PROJECT DATA

LAND USE	APPROVED	PROPOSED
TRANSIENT RESIDENTIAL UNITS	65	127
MARKET RATE RESIDENTIAL UNITS	5	1
TRANSFERABLE BUILDING RIGHT TBRS	9,686	-

PARKING SPACES	REQUIRED	PROPOSED
COMMERCIAL PARKING 1/500		
TRANSIENT ROOMS 1 PER UNIT		
SFR (2)	142	169 (5 ADA STALLS)

SITE LIGHTING:

THE PARKING LOT LIGHTING WILL BE ACCOMPLISHED WITH SHIELDED DOWNLIGHTS ON 30-FOOT BRONZE COLOR ALUMINUM LIGHT POLES, SPACED TO MEET REQUIRED LIGHTING COVERAGE.

PATHWAY LIGHTING WILL BE INCORPORATED USING LOW VOLTAGE STAKE MOUNTED PATHWAY LIGHTING, AND INTEGRATED LANDSCAPE LIGHTING. THIS METHODOLOGY DOES NOT CREATE ANY CONDITION WHICH WOULD LIGHT THE NIGHTTIME SKY ABOVE BUNGALOW HEIGHT.

ANY POTENTIAL ADDITIONAL MARINA LIGHTING OR LIGHTING WITHIN 50 FEET OF THE SHORELINE WILL CONFORM WITH TURTLE LIGHTING RESTRICTIONS.

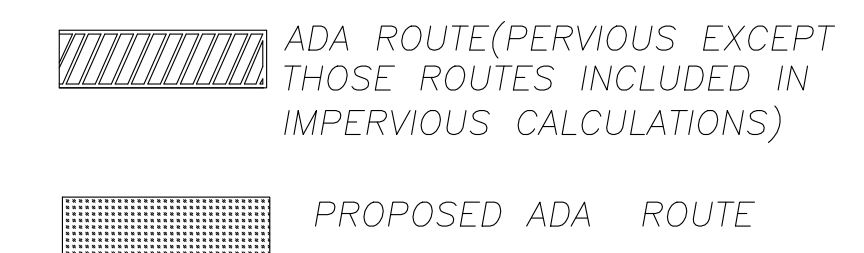
OPEN SPACE CALCULATION

TOTAL UPLAND AREA	363,697 SQ.FT.
EXISTING IMPERVIOUS AREA	152,708.35 SQ.FT.
PROPOSED IMPERVIOUS AREA	
BUNGALOWS	70,680 SQ.FT.
HOUSE MANAGER	1,600 SQ.FT.
BUILDING A	2,771 SQ.FT.
PORTE COCHERE	1,342 SQ.FT.
BUILDING B	8,427 SQ.FT.
BUILDING C	3,500 SQ.FT.
DUMPSTER	372 SQ.FT.
POOL DECK	13,140 SQ.FT.
TIKI	750 SQ.FT.
ZEN GARDEN	576 SQ.FT.
MARINA BATH HOUSE	600 SQ.FT.
ADA PARKING SPACES	861.3 SQ.FT.
POOL EQUIPMENT	127 SQ.FT.
PAVERS AT ENTRANCE	5,670 SQ.FT.
DOCKS	8,265.4 SQ.FT.
PROPOSED IMPERVIOUS AREA	118,681.70 SQ.FT.
PERCENTAGE IMPERVIOUS AREA	32.63%
REQUIRED OPEN SPACE AREA 20%	72,739.4
PROPOSED OPEN SPACE AREA (PERVIOUS AREA)	245,8015.30 SQ.FT.
PERCENTAGE OPEN SPACE AREA (PERVIOUS AREA)	67.37%

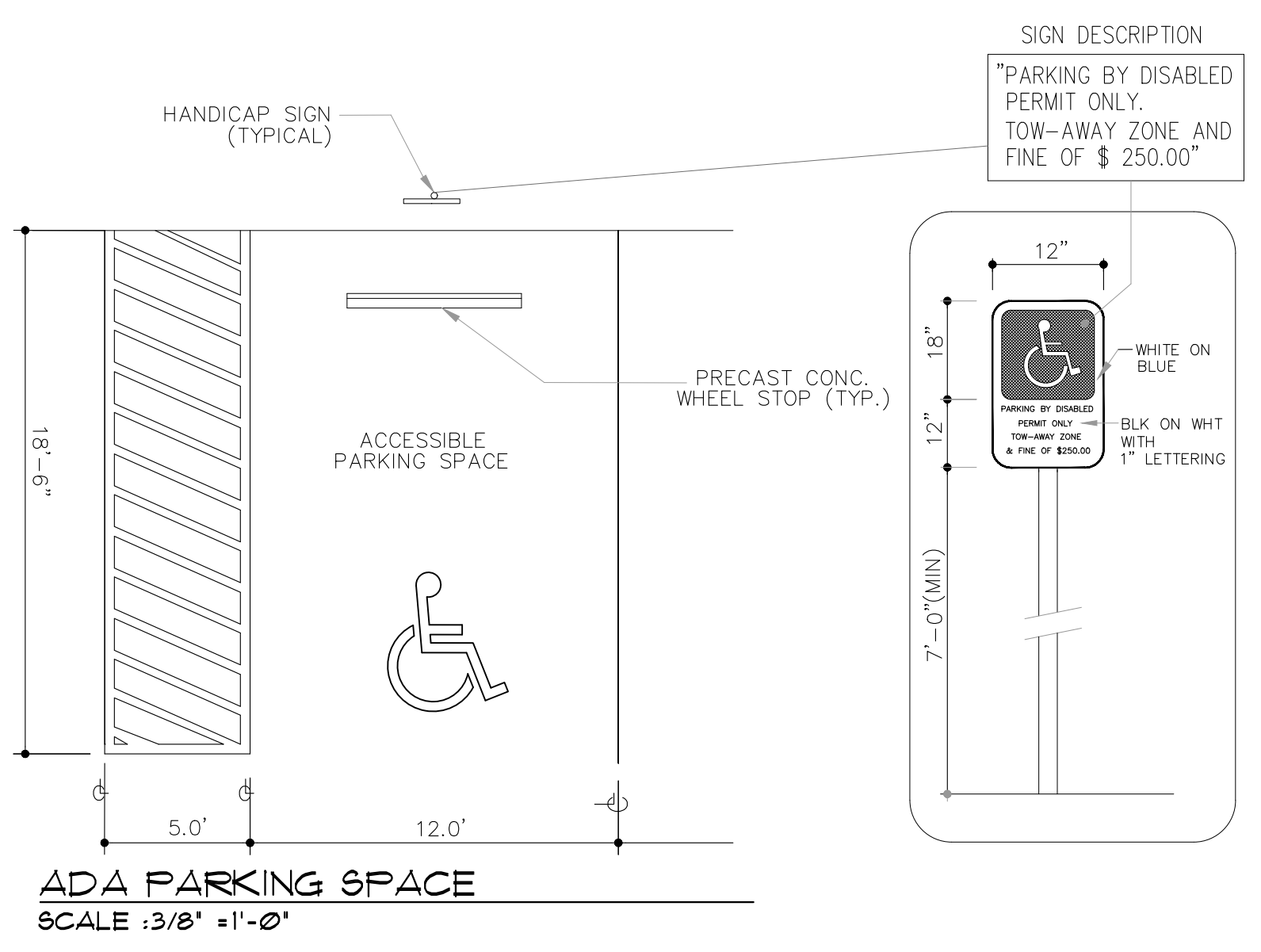
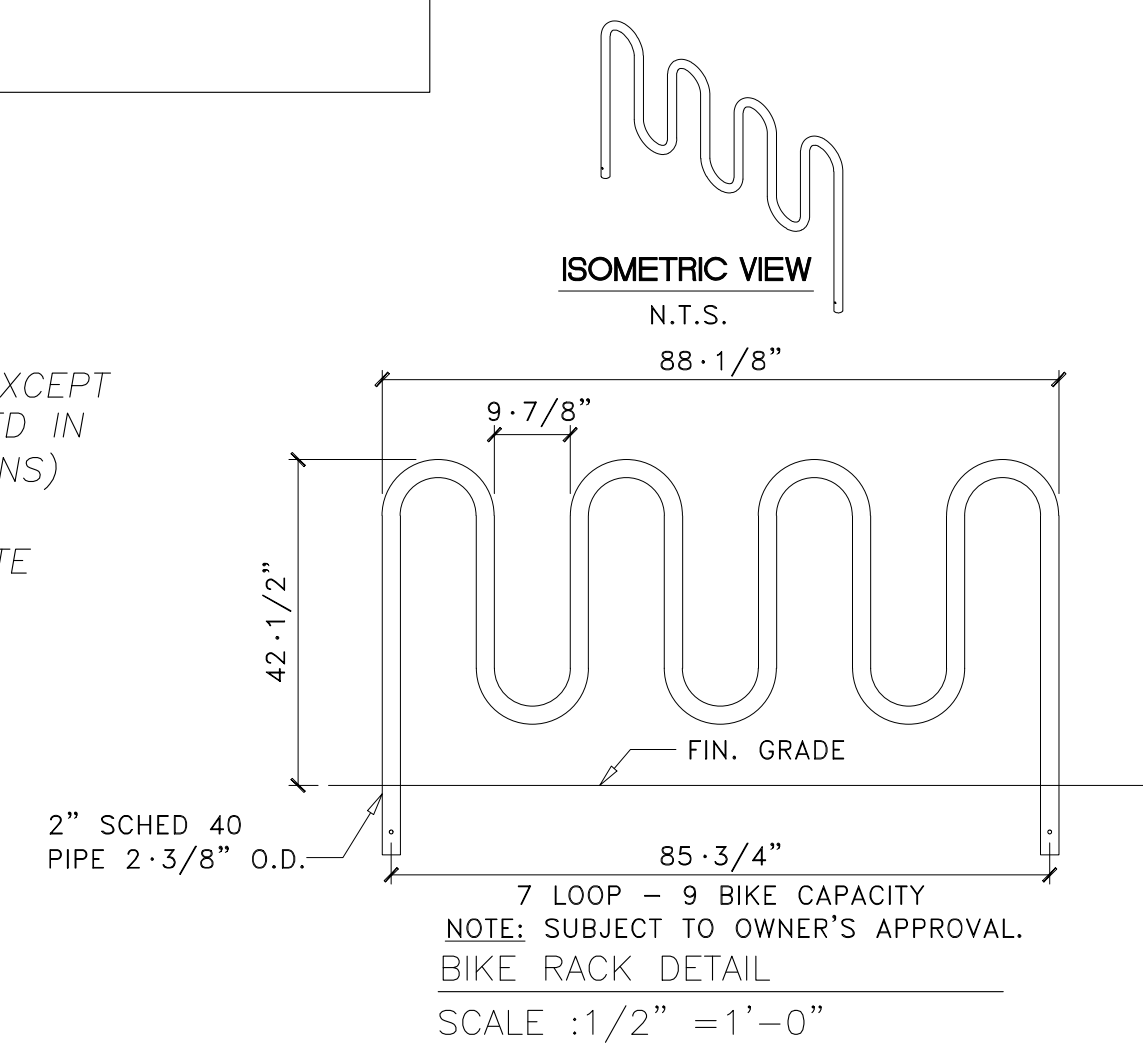
SHORELINE SETBACK AREA CALCULATION 50' SETBACK

19,486.8 SQUARE FT TOTAL SHORELINE SETBACK AREA IMPERVIOUS	
2,375.5 SQUARE FT IMPERVIOUS = 12.19 %	
PERVIOUS	
17,111.3 SQUARE FT PERVIOUS = 87.81%	

- GENERAL NOTES**
- 1-FIRE LANE AND INTERNAL ROADS SHALL BE COMPACTED SAND
 - 2-PARKING LOTS EXCEPTS FOR ADA PARKING, PARKING AT ENTRANCE AND MARINA PARKING SHALL BE COMPACTED SAND
 - 3-ALL COMMERCIAL BUILDINGS ARE ACCESSORY TO HOTEL USE.
 - 4-NO CHANGE TO EXISTING MARINA EXCEPT FOR RELOCATING DECK MASTER BUILDING WITH SHOWER
 - 5-BUNGALOWS 1-10 ARE DUAL CERTIFIED AS MODULAR AND RV. FOR LAND DEVELOPMENT AND FEMA ELEVATION REQUIREMENTS. THESE UNITS ARE DESIGNED WITH WHEELS AND AXLES TO REMAIN, AND CAN BE MOVED IN THE EVENT OF A HURRICANE.
 - 6-VALET PARKING REQUIRED BY ALL GUEST. GOLF CART STYLE VALET SERVICE AVAILABLE FOR GUEST IN RESORT INCLUDING A WHEELCHAIR ACCESSIBLE CART.
 - 7-FIRE LANE IS A LOOP ROAD. PORTION IS ON NEIGHBORING PROPERTY WITH EASEMENT ACCESS. ALL TURN RADIUS TO MEET FIRE TRUCK REQUIREMENTS.



SITE PLAN
 SCALE: 1"=50'



Planning Commission Staff Report



Meeting Date: April 19, 2021
To: Planning Commission
From: Brian Shea, Planning Director

Agenda Item:

An Ordinance Of The City Of Marathon, Florida; Amending Chapter 107 Article 1 Entitled Building Permit Allocation System (BPAS); Providing Criteria For Transient Unit Conversion Of Market Rate Dwelling Units And To Establish Limitations; Providing For Severability; Providing For The Repeal Of All Ordinances Or Parts Of Ordinances Found To Be In Conflict; And Providing For Inclusion In The Code; And Providing For An Effective Date.

RECOMMENDATION:

Staff recommends DENIAL.

REQUEST:

The draft Ordinance seeks to create specific regulations for the conversion of market rate units into transient units.

BACKGROUND

Former mayor of the City of marathon Ginger Snead in 2011 wrote a letter to the secretary of the Florida department of community affairs requesting 1,000 additional transient residential units ("tr us") outside of the rate of growth ordinance ("ROGO") framework to be allocated by the City over ten (10) years. The letter in support of the additional TRUs highlighted that the City exceeded the State's benchmarks in improving infrastructure servicing wastewater systems and stormwater systems, financial matters, and environmental protection. The letter also discusses the limited impact that TRUs have on hurricane evacuation models because of the mandatory evacuation for visitors being ordered earlier than for permanent residents.

Mayor Snead sent a similar letter to Governor Rick Scott requesting 500 new TRUs over five (5) years. The letter to Governor Scott states that the City is ahead of schedule on all the goals that the state set for the City. The letter additionally expresses that the City has capacity for 500 TRUs outside of the ROGO framework and explains how the City benefits from additional TRUs.

The governor and the governor's cabinet sitting as the administration commission overseeing the area of critical state concern recognized the achievements of the City and awarded 200 TRUs to the City. The 2011 Florida Keys area of critical state concern annual report ("annual report") found that the City of Marathon completed 94% of their tasks compared to 64% completed by Monroe county and 69% by the Village of Islamorada.

The comprehensive plan was amended in 2012 to authorize the City to allocate the 200 TRUs. Comprehensive Plan policy 1-3.2.6 is a product of the City's accomplishments and desire for TRUs outside of the ROGO framework, which currently indefinitely disallows any new TRUs for allocation by the City.

The LDRs that set out the allocation process for the 200 TRUs in the comprehensive plan policy were mostly tailored to the 100 TRUs readily available. Those 100 TRUs were allocated to the Hyatt (now Faro Blanco), the Courtyard Marriott, Bonefish Motel, the Holiday Inn Express (now Fairfield Inn), and Coconut Cay. The remaining 100 TRUs available have not been utilized. The City understandably may not be interested in allocating TRUs from the residential BPAS pool because the permanent residential unit allocations are granted to deserving applicants and the allocations can reduce the City's exposure to takings liability. This amendment proposed will allow private property owners to convert their BPAS exempt market rate units, which are frequently used as vacation rental units, for the available TRUs. This proposed conversion is consistent with the intent of the additional 100 TRUs allocated by the State.

Many market rate units in MU or I zoning districts are utilized as vacation rentals under chapter 8, article II of the City of Marathon code of ordinances, which mandates that all rentals be at least seven (7) nights. The vacation rental units are used similarly as TRUs but have the added condition that all rentals be at least seven (7) nights. The amendments proposed in this application would allow vacation rental unit owners to better utilize their property by taking advantage of tr us authorized by the state that were previously requested by the City. Allowing the vacation rental units to be converted to TRUs and used for nightly rentals would increase the City's ability to capture a greater percentage of visitors that visit the Florida Keys, which was a stated goal of former Mayor Snead.

AUTHORITY

Section 102.26. Planning Commission Recommendation.

A. *Authority:* The PC shall consider a proposed text amendment at the request of the Council.

B. *Review Criteria:* The PC shall review such proposed amendment, based upon the criteria listed below:

1. The need and justification for the change;
2. The consistency of the proposed amendment with the Comprehensive Plan; and
3. Whether the proposed change shall further the purposes of the LDRs and other City Codes, regulations and actions designed to implement the Comprehensive Plan.

C. *Findings:* The PC shall make a finding of whether the proposed amendment is consistent with the Comprehensive Plan and a recommendation shall be prepared and forwarded to the Council, indicating if the proposed amendment should be:

1. Approved as proposed;
2. Approved with amendments proposed by the PC; or
3. Denied

Section 102.27. - Hearing(s) by Council.

- A. The decision to process a text amendment is within the sole discretion of the Council.
- B. For any proposed text amendment, the Council shall hold a minimum of two (2) public hearings, conforming to the requirements of Fla. Stat. Ch. 166, before acting on the amendment.

Section 102.28. - Action by Council.

Following the public hearings, the Council shall make a finding of whether the proposed text amendment is consistent with the Comprehensive Plan and may approve, approve with changes, or deny the proposed amendment.

As noted, review of proposed LDR text amendments is to be made based on three basic criteria: need and justification for change, consistency with the adopted Comprehensive Plan, and whether the proposed amendment will further the purposes of the LDRs, other ordinances, and actions taken to further the implementation of the Comprehensive Plan. The Planning Commission, in reviewing the proposed amendment, may recommend approval as is, approval with changes, or denial to the City Council.

ANALYSIS OF LAND DEVELOPMENT REGULATION TEXT AMENDMENTS:

Section 102.26(B) of the Land Development Regulations requires that the following standards and criteria be considered for any proposed text amendment. Each criteria and explanation of relevance to this proposed amendment are listed below:

A. The need and justification for the change;

The 100 additional TRUs have not been utilized even though they have been available for over eight (8) years. This amendment would make the TRUs available to private parties who wish to convert their market rate units instead of the City having to convert their unallocated market rate units. The result of market rate units being converted to TRUs would be the same, but this amendment affords private parties the opportunity to apply for the conversion in City reviewed conditional use applications or applications for development agreement.

A large percent of the market rate units that would be converted would be or are already being used as vacation rentals. Units used as vacations rentals converted to TRUs will not alter the hurricane evacuation model, as they have the same evacuation time requirement.

B. The consistency of the proposed amendment with the Comprehensive Plan; and

The proposed amendment is consistent with the Comprehensive Plan Policy 1-3.2.6 regarding the 200 TRUs made available by the State after requests by the City. The Comprehensive Plan policy makes available 100 TRUs and makes available an additional 100 TRUs that the City may allocate from the residential unit pool. This amendment is consistent with the policy because it allows the City to review and approve the allocation of units.

Policy 1-3.2.6 Manage Development of New Transient Units
Transient uses shall be defined as any use of any structure for a tenancy of 28 days or less.

The number of new transient units is defined as the number of current and vested hotel and motel rooms, campground, and recreational vehicles spaces (non-permanent) existing within the City, and any additional transient units approved by the Governor and Cabinet – sitting as the Administration Commission – such as but limited to the 100 transient units so approved on January 18, 2012, and up to an additional 100 transient units which the City may allocate at its discretion from the Administrative Relief and/or Residential BPAS pools. Prior to the allocation of any such transient units the City shall adopt Land Development Regulations that establishes an allocation process that:

- a. Provides a Building Permit Allocation System (BPAS) ranking system; and
- b. Provides disincentives for development in environmentally sensitive lands; and
- c. Provides disincentives for development in offshore islands, COBRA, Coastal High Hazard Areas, and High Velocity Zones; and
- d. Provides incentives for in-fill development; and
- e. Maintains an up-to-date hurricane evacuation plan and meet the required 24-hour hurricane evacuation time or other applicable state standard for hurricane evacuation;
- f. Provides incentives for mixed-income (affordable and employee housing within one development) developments; and
- g. Provides means of replacement & accounting mechanism if TRUs are borrowed forward.

At this time, the City would urge to continue to use its discretion regarding the additional 100 transient units which the City may allocate from the Administrative Relief and/or Residential BPAS pools.

C. Whether the proposed change shall further the purposes of the LDRs and other City Codes, regulations and actions designed to implement the Comprehensive Plan.

This amendment will further the purposes of the LDRs and other regulations designed to implement the Comprehensive Plan by allowing for the increased accessibility of TRUs already allocated by the State. However, the amendment may impede other purposes of the LDRs or comprehensive Plan.

The existing hotel redevelopment section of the code lays out how a single room may be increased. A one (1) bedroom unit may redevelop as a two (2) bedroom unit at the rate of 90 percent of the one (1) bedroom units being redeveloped as two (2) bedroom units; and a one (1) bedroom unit may redevelop as a three (3) bedroom unit at the rate of 85 percent of the one (1) bedroom units being redeveloped as three (3) bedroom units. This conversion factor is not accounted for in the proposed amendment.

Additionally, the hotel redevelopment code section requires the creation of affordable housing at a rate of 20% of the proposed hotel floor area. This amount may be amended from time to time by Council.

A hypothetical conversion of 10 three-bedroom units (1800 sq. ft. each) would require more than 10 TRU allocations. In addition to convert those to a transient resort would

require the creation of 3,600 square feet of affordable housing. With the maximum square footage of 1,800 square feet for an affordable unit, this would use two additional allocations. With the minimum building size of 375 square feet for an affordable unit, the more than 10 TRUs would require an additional 10 affordable units to develop.

While the City may not be losing market rate units, this does put the City at a disadvantage in terms of affordable allocations. The City did recently update the LDRs to create the ability to accept the 300 Early Evacuation Units from the State. These units must evacuate within the same period as the Vacation rentals and TRUs.

The adoption of this amendment would therefore add an additional 100 units on top of those 300 affordables within that evacuation window. Without an ability to cap vacation rentals, this early evacuation period is being reduced further. The 2020 Census will be used to update the Hurricane Evacuation Model, which will account for the existing permanent and transient residents in the Keys. The City should hold these units in their reserves and review the proposed LDR amendment upon the release of the updated Hurricane Evacuation Model.

CONCLUSION:

Staff indicates that the proposed text amendments are consistent with the standards and tenants of Chapter 163 and 380 F.S., and the City's Comprehensive Plan adopted under the requirements of these statutes and rules.

RECOMMENDATION:

Staff recommends DENIAL.

COUNCIL AGENDA STATEMENT



Meeting Date: April 19, 2021
To: Honorable Mayor and Council Members
From: Brian Shea, Planning Director
Through: George Garrett, City Manager

Agenda Items: An Ordinance Of The City Of Marathon, Florida Amending The Future Land Use Map (FLUM) From Conservation (C) To Mixed Use-Commercial (Mu-C) For The Property Described As Block 1 Lots 4-19, Block 2 Lots 11-15, Section 35, Township 65, Range 33, Crawl Key, Marathon, Monroe County, Florida; Having Real Estate Numbers 00358280-000000, 00358290-000000, 00358300-000000, 00358310-000000, 00358320-000000, 00358330-000000, 00358340-000000, 00358350-000000, 00358360-000000, 00358370-000000, 00358380-000000, 00358390-000000, 00358400-000000, 00358410-000000, 00358420-000000, 00358430-000000, 00358570-000000, 00358580-000000, 00358590-000000, 00358600-000000, And 00358610-000000; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The State Department Of Economic Opportunity; And Providing For An Effective Date Upon The Approval Of This Ordinance By The State Department Of Economic Opportunity.

An Ordinance Of The City Of Marathon, Florida Amending The Zoning Designation From Conservation Native Area (C-Na) To Mixed Use (Mu) For The Property Described As Block 1 Lots 4-19, Block 2 Lots 11-15, Section 35, Township 65, Range 33, Crawl Key, Marathon, Monroe County, Florida; Having Real Estate Numbers 00358280-000000, 00358290-000000, 00358300-000000, 00358310-000000, 00358320-000000, 00358330-000000, 00358340-000000, 00358350-000000, 00358360-000000, 00358370-000000, 00358380-000000, 00358390-000000, 00358400-000000, 00358410-000000, 00358420-000000, 00358430-000000, 00358570-000000, 00358580-000000, 00358590-000000, 00358600-000000, And 00358610-000000; Providing For Severability; Providing For The Repeal Of Conflicting Provisions; Providing For The Transmittal Of This Ordinance To The State Department Of Economic Opportunity; And Providing For An Effective Date Upon The Approval Of This Ordinance By The State Department Of Economic Opportunity.

APPLICANT/OWNER: Floridian Holdings LLC

AGENT: Bart Smith, Smith Hawks

LOCATION: The subject property is located on and adjacent to US1 and Banana Boulevard, nearest Mile Marker 56.5 Having Real Estate Numbers 00358280-000000, 00358290-000000, 00358300-000000, 00358310-000000, 00358320-000000, 00358330-000000, 00358340-000000, 00358350-000000, 00358360-000000, 00358370-000000, 00358380-000000, 00358390-000000, 00358400-000000, 00358410-000000, 00358420-000000, 00358430-000000, 00358570-000000, 00358580-000000, 00358590-000000, 00358600-000000, And 00358610-000000.

ADDRESS: Vacant Land on and adjacent to US1 and Banana Boulevard

REQUEST: Amend the Future Land Use Map (FLUM) for the subject properties from Conservation (C) to Mixed Use Commercial (MU-C).

Amend the Zoning Map for the subject properties from Conservation Native Area (C-NA) to Mixed Use (MU).

LOT AREA: The aggregated size of the parcels is approximately 208,895 square feet. (See attached sketch and description as Exhibit A.)

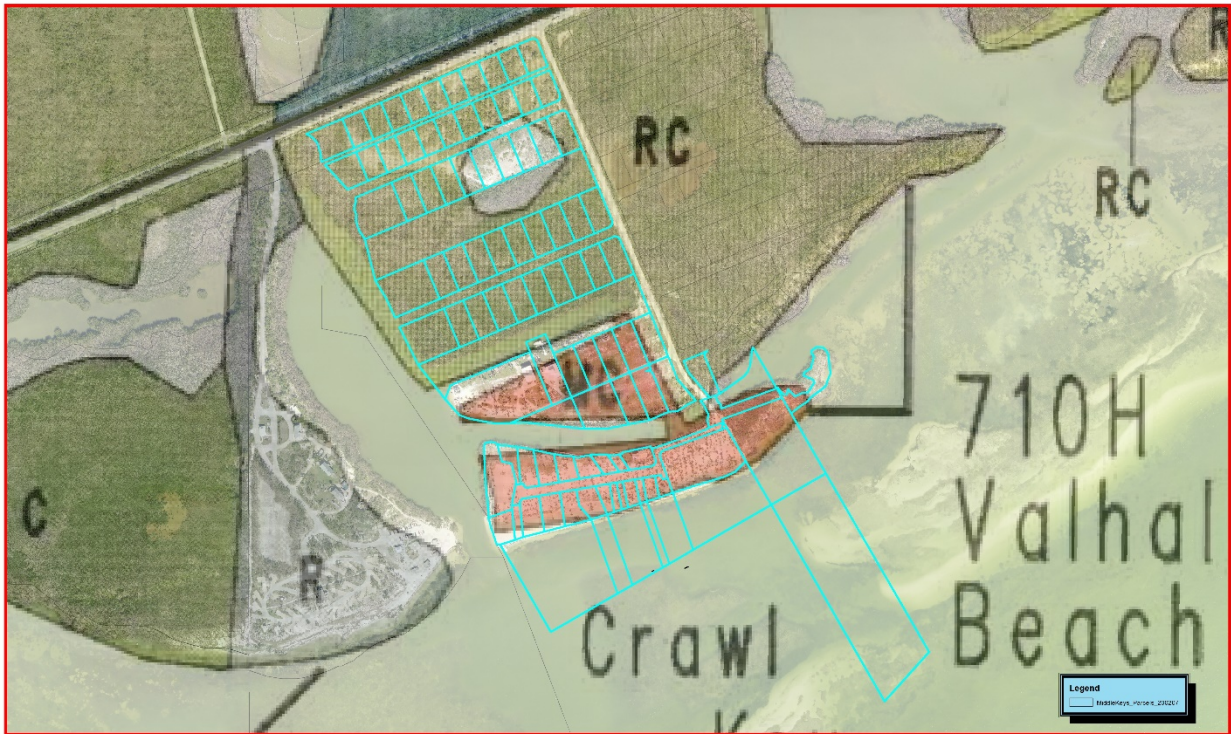
BACKGROUND:

These parcels were zoned as Native Area NA under Monroe County. In 2005, when the City of Marathon adopted the Comprehensive Plan, the parcels were given a Conservation (C) FLUM designation and were in turn zoned as Conservation Native Area (CNA) when the City adopted the current zoning maps in 2007. The applicants are requesting the designation of the FLUM map and subsequent rezoning to make the parcels consistent with the Mixed-Use Commercial (MU-C) designation and existing and proposed uses. The rezoning is also addressed in this application. There is no existing use on the vacant property.

The applicants are seeking to change the zoning and the FLUM of the area as part of a larger development approval with Conditional Use, Development Agreement, and plat abandonment. The area subject to the rezoning and FLUM changes will permit allowed uses to be incorporated into a proposed resort project without the need for changes in density and intensity. The allowed density, intensity and uses assigned to the rezoned area shall be restricted to only those uses integral and accessory to the Development Agreement.

	Pre 2005	Pre 2007	2005	2007
	OLD FLUM	OLD ZONING	CURRENT FLUM	CURRENT ZONING
	Residential Conservation	Native Area	Conservation	Conservation Native Area

Figure One
Old FLUM



City of Marathon, Florida
 Official Map Product
 Valhala



Figure Two
Old Zoning

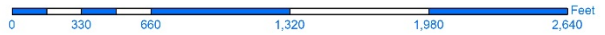


Figure Three
Current FLUM

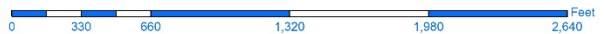
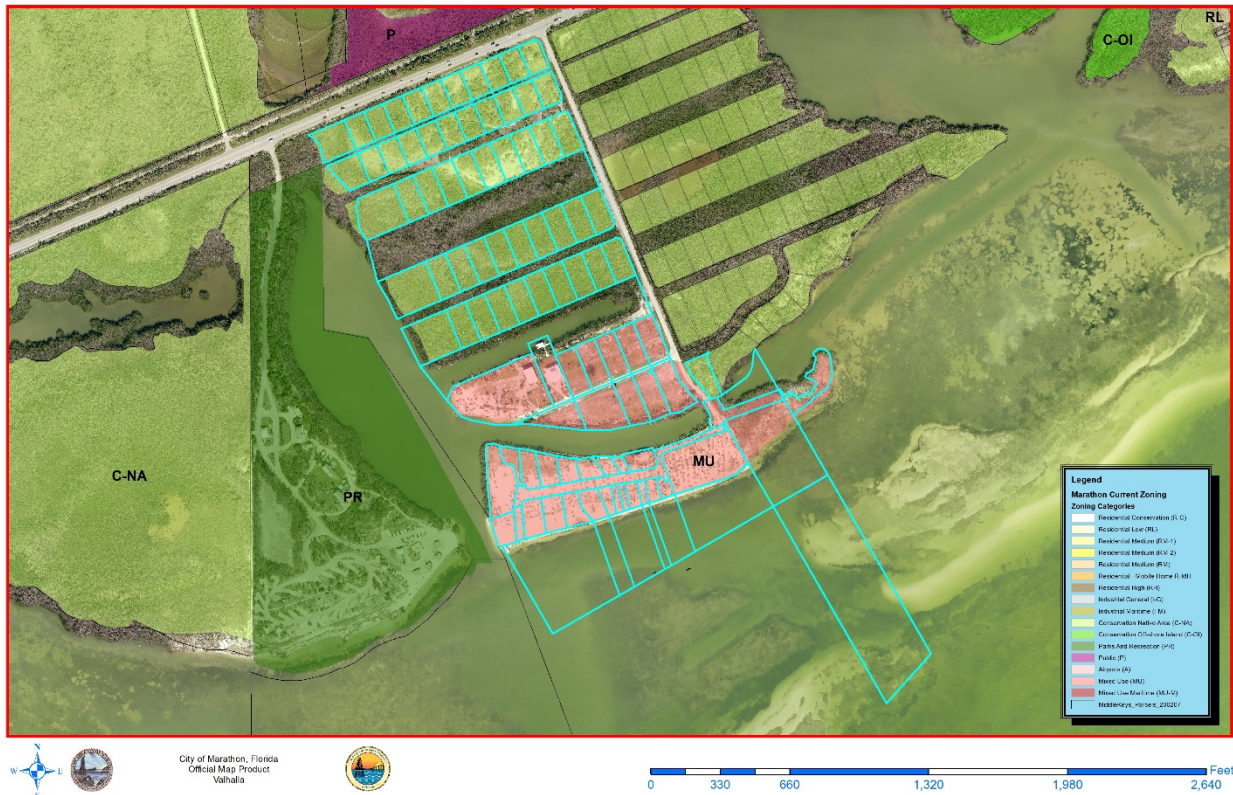


Figure Four
Current Zoning



Current and Proposed Future Land Uses and Zoning

Future Land Use Map Designation

Current: Conservation (C)
Proposed: Mixed Use Commercial (MU-C)

Land Use (Zoning) District Designation

Existing: Conservation Native Area (C-NA)
Proposed: Mixed Use (MU)

Use of Properties

Existing: Vacant
Proposed: Parking, registration, and support facilities for the proposed hotel development.

Surrounding FLUM, Zoning and Uses

The property subject to the FLUM amendment is located on US1 adjacent to Banana Boulevard and consists of multiple parcels. The properties are located North and East of property under the same ownership that is zoned Mixed Use and Conservation Native Area. Adjacent land use to the West is Conservation Native Area. To the South is Conservation Native area and Mixed-Use zoning. Across US1 to the North the zoning is Public. The following table correlates existing uses with the existing FLUM, zoning and uses.

	<u><i>Existing FLUM</i></u>	<u><i>Existing Zoning</i></u>	<u><i>Existing Uses</i></u>
North	Public (P)	Public (P)	Fire Training Academy, Morgue, FKEC Relay Station
East	Conservation (C)	Conservation Native Area (CNA)	Vacant
South	Conservation (C) and Mixed-Use Commercial (MU-C)	Conservation Native Area (CNA) and Mixed Use (MU)	Single Family and previously developed MU parcels
West	Recreation (R) and Conservation (C)	Parks and Recreation (PR) Conservation Native Area (CNA)	Curry Hammock State Park

Existing Habitat

The existing conditions maps indicate the properties are designated as vacant land. The parcels are within the Florida Forever boundaries, which is land that has been identified as critical areas suitable for acquisition by federal, state, or local agencies. The parcels are known habitat for Osprey, and potential habitat for Bald Eagles. Additionally, the parcels are potential habitat for the Stock Island Tree Snail, Tree Cactus and Eastern Indigo Snake. Any impacts to these areas will be reviewed using the approved Species Assessment Guides to determine what impact if any occurs to the habitat to these species.

FEMA

The properties are within the AE 7 and AE 8 flood zones. On the preliminary flood maps the properties are within the AE 9 flood zone.

DEVELOPMENT ANALYSIS:

Current FLUM: Conservation (C)

Policy 1-3.1.4 Conservation of the Comprehensive Plan states “the principal purpose of the Conservation future land use category is to provide for the preservation of natural and historic resources and passive resource based recreational uses. These areas require protection from development or require strict regulation of density and intensity of development. very low-density residential development and low intensity public uses and utilities may be permitted. the maximum density shall be determined by the results of a habitat analysis as provided in the land development regulations.”

Conservation Native Area Allowable Density & Intensity:

Market Rate – 1 Unit per 4 acres

Affordable – 1 Unit per 4 acres

FAR – 0.05-0.10

Proposed FLUM: Mixed Use Commercial (MU-C)

Policy 1-3.1.4 Mixed Use Commercial of the Comprehensive Plan states “the principal purpose of the Mixed-Use Commercial land use category is to provide for the establishment of Mixed-Use development patterns within the City. This land use category is intended to provide for the commercial zoning district where various types of commercial, retail, and office uses may be permitted at intensities which are consistent with the community character and the natural environment and to provide for various types of residential uses, including employee housing and commercial apartments.”

Mixed Use Commercial Allowable Density

Market Rate – 2-6 Units per acre

Affordable – 10-15 units per acre

Transient – 10-25 units per acre

Commercial-Industrial Intensity Table

Type of Use	FAR ¹
Retail	
<i>Low Intensity</i>	.60
<i>Med Intensity</i>	.45
<i>High Intensity</i>	.25
Office	.60
Commercial Recreation	.15
Institutional	.30
Outdoor Recreational	.15
Public Buildings and Uses	.45
Restaurant/Bar	.60
Industrial	.85
Light Industrial in MU	.30

¹ The FAR for mixed use developments may be increased to .75 if mitigated by the development of affordable/workforce housing is provided

ANALYSIS OF FLUM CHANGE REQUEST:

Consistency with Adopted Comprehensive Plan Goals, Objectives, and Policies.

The following excerpts from the City of Marathon Comprehensive Plan apply to the proposed development.

Policy 1-1.1.4 states the City shall continue to maintain **LAND DEVELOPMENT REGULATIONS** which implement the following techniques required to create a smooth land use transition where it is not feasible to separate incompatible land uses.

- a. Variable buffers, combining land and landscaping to achieve adequate separation of uses, appropriate open space, reduction of potential noise, light, glare, and pollution, and screening of physical features of a proposed development;

- b. Variable setbacks, based upon degree of difference in proposed use, density, intensity, scale, mass, or height;
- c. Placement and effective screening or shielding of site features such as lights, signs, dumpsters, loading areas, parking areas, outdoor storage, or other features with potential negative impacts;
- d. Effective transitions of on-site densities, intensities, scale, mass, and height; and
- e. Other innovative site design features that effectively achieve compatibility and effectively mitigate potential negative impacts.

Policy 4-1.4.1 states the City shall continue to maintain Land Development Regulations that prevent adverse impacts of development on seagrass beds, wetlands, and other living marine resources. Since these areas are sensitive to increased turbidity, stormwater runoff and other forms of pollution, the introduction of nutrients shall be regulated through effective water quality management. Development impacting marine resources shall be coordinated with State and Federal agencies having jurisdiction prior to the City granting plan approval and/or prior to release of any permit for construction. §163.3177(6)(d)2.e F.S.

FL State Statutes

Relevant criteria promulgated in Chapters 163, 380, and 9J-5 F.A.C. can be itemized in bullets as follows based on the critical concerns more specifically identified in the City's comprehensive plan:

- Natural Resource Protection
 - Wetlands
 - Estuaries
 - Living marine resources
 - Beaches / Dunes
 - Unique wildlife habitat
 - Water Quality
- Historical Resources
- Infrastructure / Concurrency Management
 - Wastewater
 - Stormwater
 - Potable Water
 - Solid Waste
 - Transportation
- Affordable Housing
- Hazard Mitigation
 - CHHA
 - Hurricane Evacuation
- Ports

- Marina Siting
- Public Use
 - Shoreline use and Access
 - water dependent and independent activity
- Land Acquisition
 - Conservation
 - CHHA
 - Public Services

These bullet items will be utilized as the focus points for review of the proposed FLUM amendment and for future comprehensive plan amendments.

Natural Resources

Direct impacts to natural resources would occur as a result of the proposed FLUM change. The existing conditions maps indicate the subject area is designated as developed.

There are no estuaries, beach areas or dunes associated with the area proposed for FLUM change. However, the areas are delineated as upland, disturbed wetlands and wetlands based upon the delineation performed by Julie Cheon. The proposed development and FLUM/Zoning change are located within the upland and disturbed wetlands and is laid out in such a way as to not impact the undisturbed wetlands. These are protected resources important to the tenants of Chapter 163, 9J-5, F.A.C., or the Principles for Guiding Development. Similarly, no living marine resources adjacent to the subject area would be adversely impacted by the proposed change in the FLUM map.

The proposed FLUM amendment is consistent with these provisions of the Comprehensive Plan and Chapters 16 and 380 F.S.

Historical and Cultural Resources

Protection of historical and cultural resources is crucial under the City's Comprehensive Plan, Chapters 163 and 380 F.S.

There are no known historical or cultural resources associated with the subject properties or within the area of the requested FLUM change. Therefore, the FLUM change would have no impacts on historical or cultural resources. The proposed FLUM amendment is therefore consistent with these provisions of the Comprehensive Plan and Chapters 16 and 380 F.S.

Infrastructure

- **Wastewater infrastructure**

Wastewater as an issue of infrastructure capacity and means of water quality protection represents

the backbone to the City's Comprehensive Plan, the tenants of Chapters 163 and 380 F.S. The subject property inclusive of the area of the proposed FLUM change is served by the Area 7 sewer infrastructure. The Utility Manager for the City of Marathon reviewed the proposed FLUM changes as well as the proposed conditional use and determined that there would be no adverse impact on sewer capacity if the proposal were approved with conditions through the conditional use process.

The proposed FLUM change would maintain concurrency levels of wastewater infrastructure capacity and provide limited or no adverse impact resulting from nutrient loading. The proposed FLUM amendment is, therefore, consistent with these provisions of the Comprehensive Plan and Chapters 16 and 380 F.S.

- **Stormwater infrastructure**

Stormwater infrastructure capacity and means of water quality protection represents another of the backbone elements of the City's Comprehensive Plan, the tenants of Chapters 163 and 380 F.S. The City of Marathon requires that all property owners retain their stormwater on site. All proposals for new developments, and redevelopments, must submit detailed civil engineering plans for review by the City Engineer. Proposals for redevelopment would have to obtain all required permits through other applicable agencies, such as the Department of Environmental Protection & South Florida Water Management District.

Staff believes that the proposed FLUM change would have a diminimus impact on stormwater infrastructure capacity.

- **Potable Water**

Monroe County's potable water facilities do not critically constrain the amount of future growth that can be accommodated in the County (see End Note 1). The current FKAA Consumptive Use Permit, when compared to current potable water consumption rates, will provide sufficient potable water to accommodate existing and committed development plus an additional 18,258 equivalent residential units (ERU's) in unincorporated and incorporated Monroe County. The FKAA's Consumptive Use Permit has been renewed (see End Note 1). Costs of improvements to upgrade facilities for potable water supply, treatment, and distribution, in order to accommodate future growth impacts, would not be borne by the City, as this utility is private and would be in the FKAA's CIP, not the City's. The applicant will have to coordinate connection and assumption of existing water lines for this area.

An increase in potable water demand is expected as part of the proposed FLUM change, any increase would have a diminimus impact on potable water infrastructure capacity. The proposed FLUM amendment is, therefore, consistent with these provisions of the Comprehensive Plan and Chapters 16 and 380 F.S.

- **Solid Waste**

Solid waste capacity is managed in the Florida Keys under haul-out contracts to mainland solid waste facilities. There are currently no limits on solid waste capacity that would be impacted by this FLUM proposal.

The proposed FLUM change would maintain concurrency levels of solid waste infrastructure capacity. The proposed FLUM amendment is, therefore, consistent with these provisions of the Comprehensive Plan and Chapters 16 and 380 F.S.

- **Transportation**

The requested FLUM change is not expected to have an adverse impact on roadway capacity.

Monroe County's roadway facilities do not critically constrain the amount of future growth that can be accommodated in the County or the City (see End Note 1). Although localized deficiencies characterize several segments of US 1, sufficient reserve capacity exists in the overall roadway system to accommodate existing and committed development plus an additional 5,738 residential units (see End Note 1). Only 2,550 were allocated to unincorporated Monroe County in 1992, of which 150 went to the City. Thus, there is reserve capacity on US 1 to accommodate planned growth in the City (see End Note 2).

The proposed FLUM change would maintain concurrency levels of transportation on U.S. Highway One. The proposed FLUM amendment is, therefore, consistent with these provisions of the Comprehensive Plan and Chapters 16 and 380 F.S.

Affordable Housing

Affordable housing is an important issue in the Florida Keys and throughout the state of Florida. The City has well over 200 developed or approved affordable housing units. The proposed FLUM change would increase a potential for increased affordable housing on site. The Mixed Use FLUM category allows for a potential of 15 units per acre of affordable housing versus the Conservation FLUM category which allows for 1 unit per acre.

The proposed FLUM change will have the effect of enhancing the potential for affordable housing projects. The proposed FLUM amendment is therefore consistent with these provisions of the Comprehensive Plan and Chapters 16 and 380 F.S.

Hazard Mitigation

- **Coastal High Hazard Areas**

The subject parcels are not in in a Coastal High Hazard Area (CHHA). Any future development on site, if encroaching into this zone, would have to comply with all provisions of the local City of Marathon Floodplain Ordinance, in accordance with the standards as set to be a participating community in the National Flood Insurance Program (NFIP).

Policy 4- 1.17.6 Limit Redevelopment in CHHA

The City shall limit redevelopment in areas within the CHHA shown by the Local Mitigation Strategy to be particularly susceptible to repeated damage. Criteria for assessing redevelopment

potential for these properties shall be addressed within the Post Disaster Redevelopment Plan, to be prepared pursuant to Policy 4-1.22.3.

Policy 4-1.20.1 Discourage Development in the High Velocity Area

The City shall, through the Land Development Regulations, continue to encourage both residential and non-residential development away from the areas designated as high velocity storm surge areas through disincentives in the adopted BPAS.

While development in the CHHA is to be discouraged in the Comprehensive Plan, it can be permitted by the Land Development Regulations in cases where it cannot be avoided; in these cases, development is required to comply with local Floodplain Management Regulations related to Velocity zone construction. The City has recently revised its floodplain regulations to comply with all recent revisions to the construction standards typically applied in a VE (CHHA) zone. This property proposed for rezoning is not within the proposed LiMWA area.

The proposed FLUM change results in a diminished hazard to public safety. New construction will have to meet flood regulations and would therefore represent decreased development in the CHHA on site. The proposed FLUM amendment is, therefore, consistent with these provisions of the Comprehensive Plan and Chapters 16 and 380 F.S.

- **Hurricane Evacuation**

The critical carrying capacity constraint at the present time is related to the requirement that hurricane evacuation clearance times for Monroe County be maintained at or below 30 hours through the Year 2002, and further reduced to 24 hours by 2010 (see End Note 1).

The Florida Department of Economic Opportunity in conjunction with sister state agencies and the participation of all local governments completed an analysis this year of current hurricane evacuation constraints. It was determined that under defined conditions, the County was able to maintain a 24- hour evacuation time while continuing the current ROGO and BPAS allocation formulas. Thus, for the ensuing ten (10) years the City will continue to be able to issue 30 residential allocations per year. Additionally, 25,000 square feet of Commercial or CBPAS is available per period. The proposed FLUM and zoning change allows for the creation of a transient hotel use. These transient rights were already accounted for in the original Hurricane Evacuation modeling.

The proposed FLUM change would have a no net impact on hurricane evacuation times due to the transient units already having existed elsewhere in the City of Marathon. The proposed FLUM amendment is, therefore, consistent with these provisions of the Comprehensive Plan and Chapters 16 and 380 F.S.

Ports – Marina Siting

Staff believes that the proposed FLUM change will have no adverse impact on ports management or the City’s Marina Siting Plan. Marinas are allowed under a conditional use permit in the Mixed Use (MU) zoning district under the City’s Land Development Regulations; however, as this

portion of the property is landlocked, no marina development is foreseeable.

The proposed FLUM amendment is, therefore, consistent with these provisions of the Comprehensive Plan and Chapters 16 and 380 F.S.

Public Use – Access to Water

There is no public access to the water from this location

Staff believes that the proposed FLUM change will have no adverse impact on public access to water. The proposed FLUM amendment is, therefore, consistent with these provisions of the Comprehensive Plan and Chapters 16 and 380 F.S.

Land Acquisition

Land acquisition in the Florida Keys is carried out by the City, County, State, and to a limited extent the federal government for the purposes of resource conservation and management, removal of properties in the CHHA from public ownership, and to provide for public services and facilities. The parcels are on the Florida Forever boundary map.

The proposed FLUM change would have no impact on land acquisition efforts of the above-mentioned entities so long a conservation easement is ensured. The proposed FLUM amendment is, therefore, consistent with these provisions of the Comprehensive Plan and Chapters 16 and 380 F.S.

SUMMARY:

The applicants have requested a change in the Future Land Use Map (FLUM) designation for the parcels located on and adjacent to US1 and Banana Boulevard. Currently the property is designated as Conservation (C). The applicant is requesting a change to Mixed Use Commercial (MUC), and subsequent rezoning of the parcel.

The applicants have requested a change in the Zoning designation for the parcels located on and adjacent to US1 and Banana Boulevard. Currently the property is designated as Conservation Native Area (C-NA). The applicant is requesting a change to Mixed Use (MU) zoning of the parcel.

Based upon the existing square footage, and allowable FAR for Conservation FLUM, the applicants proposed square footage would be allowed. However, the use itself would not. Staff proposes an overlay of MU-C FLUM and MU zoning for the area established in Exhibit A to allow for the approval of the specific use, not allowing any increase in density nor intensity.

Staff finds the proposed FLUM change consistent with the standards and tenants of Chapter 163 and 380 F.S., and the City's Comprehensive Plan adopted under the requirements of these statutes and rules.

RECOMMENDATION:

Based on the above information, the Marathon Planning Department staff recommend that the Planning Commission forward a recommendation of Approval to Council.

PLANNING COMMISSION AGENDA STATEMENT



Meeting Date: April 19, 2021
To: Honorable Mayor and Council Members
From: Brian Shea, Planning Director
Through: George Garrett, City Manager

Agenda Item: Consideration Of A Request A Conditional Use Permit And A Development Agreement, For Floridian Holdings, LLC, Pursuant To Chapter 102, Articles 8 And 13 Of The City Of Marathon Land Development Regulations (“The Code”) Entitled “Development Agreement” And “Conditional Use Permits” Respectively For The Development Of A Hotel; Located At And Around 56243 Ocean Drive; Which Is Legally Described As Block 1 Lots 1-22, Block 2 Lots 1-20, Lot A, And Waterway Number 1, Block 3 Lots 1-3 And Lots 5-19, Lot A, And Part Of Waterway Number 2, Block 4 Lots 1-4, Block 5 Lots 1-7, Lot A, And Lot B Of Ecstasy Subdivision, As Well As The Entirety Of Valhalla Island Amended Plat Of Ecstasy Subdivision Block A, Bay Bottom Adjacent To Tract A, And Previously Abandoned Right Of Way Of Ocean Drive, Section 35, Township 65, Range 33, Crawl Key, Marathon, Monroe County, Florida; Having Real Estate Numbers 00099750-000000, 00099760-000000, 00099760-000100, 00099760-000200, 00099760-000300, 00099760-000400, 00099760-000500, 00358250-000000, 00358260-000000, 00358270-000000, 00358280-000000, 00358290-000000, 00358300-000000, 00358310-000000, 00358320-000000, 00358330-000000, 00358340-000000, 00358350-000000, 00358360-000000, 00358370-000000, 00358380-000000, 00358390-000000, 00358400-000000, 00358410-000000, 00358420-000000, 00358430-000000, 00358440-000000, 00358450-000000, 00358460-000000, 00358470-000000, 00358480-000000, 00358490-000000, 00358500-000000, 00358510-000000, 00358520-000000, 00358530-000000, 00358540-000000, 00358550-000000, 00358560-000000, 00358570-000000, 00358580-000000, 00358590-000000, 00358600-000000, 00358610-000000, 00358620-000000, 00358630-000000, 00358640-000000, 00358650-000000, 00358660-000000, 00358661-000000, 00358710-000000, 00358720-000000, 00358730-000000, 00358740-000000, 00358750-000000, 00358760-000000, 00358770-000000, 00358780-000000, 00358790-000000, 00358800-000000, 00358810-000000, 00358820-000000, 00358830-000000, 00358840-000000, 00358850-000000, 00358851-000000, 00358860-000000, 00358870-000000, 00358880-000000, 00358890-000000, 00358900-000000, 00358910-000000, 00358910-000100, 00358930-000000, 00358940-000000, 00358950-000000, 00358960-000000, 00358970-000000, 00358980-000000, 00358990-000000, 00358990-000200, 00359000-000000, 00359601-000000, 00359602-000000, 00359602-000100, 00360220-000200, 00360220-000400, 00360220-000500, 00360220-000700, 00360220-000800, 00360220-000900, 00360220-001000, 00360220-001100, 00360220-001200, 00360220-004400, 00360220-004500, 00360220-004600, 00360220-004700, 00360220-004800, 00360220-004900, 00360220-005000, 00360220-005200, 00360220-005300, 00360220-005400, 00360220-005500, 00360220-005600, 00360220-005700, 00360220-005800, 00360220-005900, And 00358670-000000, Nearest Mile Marker 57.

APPLICANT/OWNER: Floridian Holdings LLC

AGENT: Bart Smith, Smith Hawks

LOCATION: The project site is located at and adjacent to US! And Banana Boulevard nearest mile marker 57. See Figure 1.

**Figure 1
Project Site**



City of Marathon, Florida
Official Map Product



0 330 660 1,320 1,980 2,640 Feet

REQUEST: A Conditional Use Approval and Development Agreement for redevelopment of the subject property having the real estate numbers 00099750-000000, 00099760-000000, 00099760-000100, 00099760-000200, 00099760-000300, 00099760-000400, 00099760-000500, 00358250-000000, 00358260-000000, 00358270-000000, 00358280-000000, 00358290-000000, 00358300-000000, 00358310-000000, 00358320-000000, 00358330-000000, 00358340-000000, 00358350-000000, 00358360-000000, 00358370-000000, 00358380-000000, 00358390-000000, 00358400-000000, 00358410-000000, 00358420-000000, 00358430-000000, 00358440-000000, 00358450-000000, 00358460-000000, 00358470-000000, 00358480-000000, 00358490-000000, 00358500-000000, 00358510-000000, 00358520-000000, 00358530-000000, 00358540-000000, 00358550-000000, 00358560-000000, 00358570-000000, 00358580-000000, 00358590-000000, 00358600-000000, 00358610-000000, 00358620-000000, 00358630-000000, 00358640-000000,

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FUTURE LAND USE MAP DESIGNATION:
Mixed Use Commercial (MU-C) and Conservation (C). See Figure 2.

Figure 2
Future Land Use Map



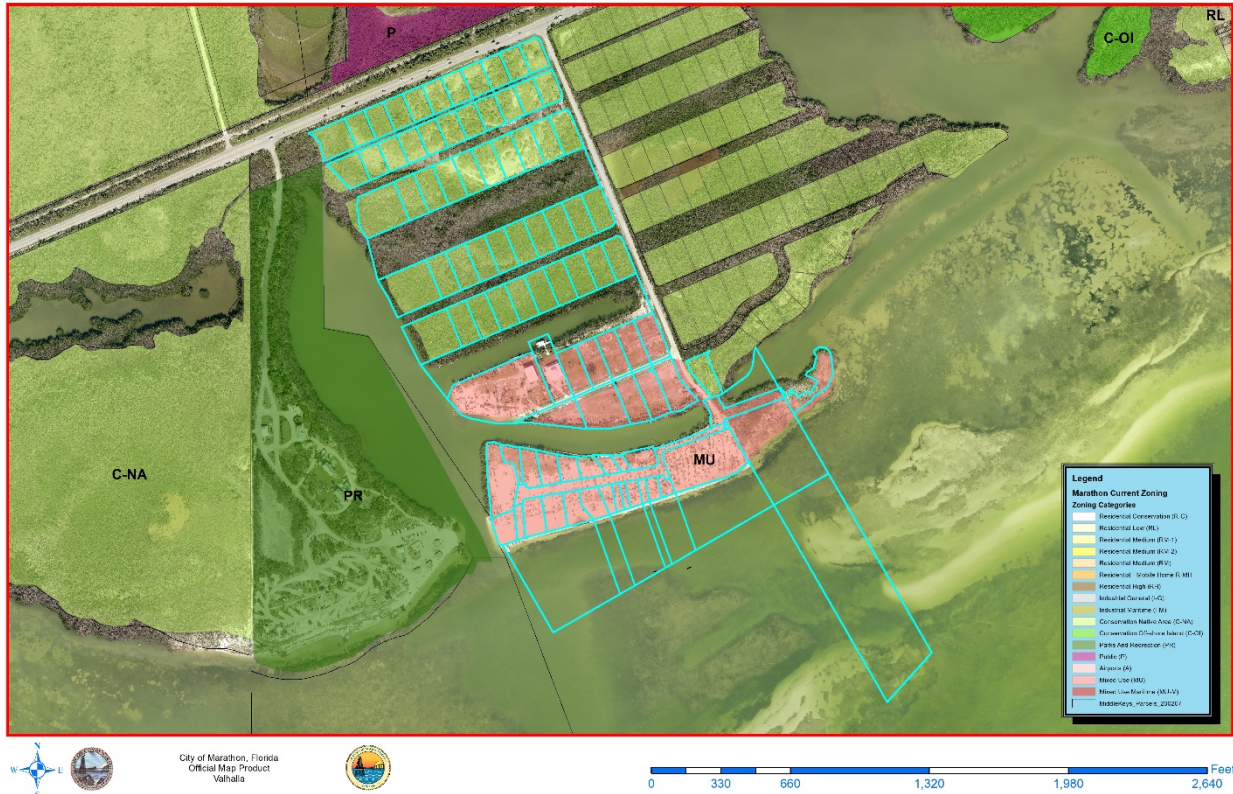
City of Marathon, Florida
Official Map Product
Yallaha



ZONING MAP DESIGNATION:

Mixed Use (MU) and Conservation Native Area (C-NA). See Figure 3.

**Figure 3
Zoning Map**



LOT SIZE:

Total acreage: approximately 52 acres or 2,265,120 square feet, approximately 18.89 acres currently zoned MU or 823,026 square feet.

SURROUNDING ZONING AND USES:

	<u>Zoning</u>	<u>Use</u>
North	Public (P)	Fire Training Academy, Morgue, FKEC Relay Station
East	Conservation Native Area (CNA)	Vacant
South	Conservation Native Area (CNA) and Mixed Use (MU)	Single Family and previously developed MU parcels
West	Parks and Recreation (PR) Conservation Native Area (CNA)	Curry Hammock State Park

EXISTING CONDITIONS:

Ecstasy subdivision was platted in 1948 and Valhalla Island was platted in 1959. The Valhalla subdivision had some development in 1959, and the Ecstasy subdivision was developed with transient uses in 1982 and with the out parcel as a single-family residence in 1993. The City previously abandoned Ocean Drive, and an easement was created for the parcels to access Banana Boulevard.

PROPOSED REDEVELOPMENT:

Transient Units:	110 Units
Hotel/Amenity Commercial Floor Area which includes back of house support, food and beverage, arrival, housekeeping, etc.:	64,554 square feet

**Figure 4
Proposed Redevelopment Site Plan (US1 Portion)**



City of Marathon, Florida
Official Map Product
Valhalla



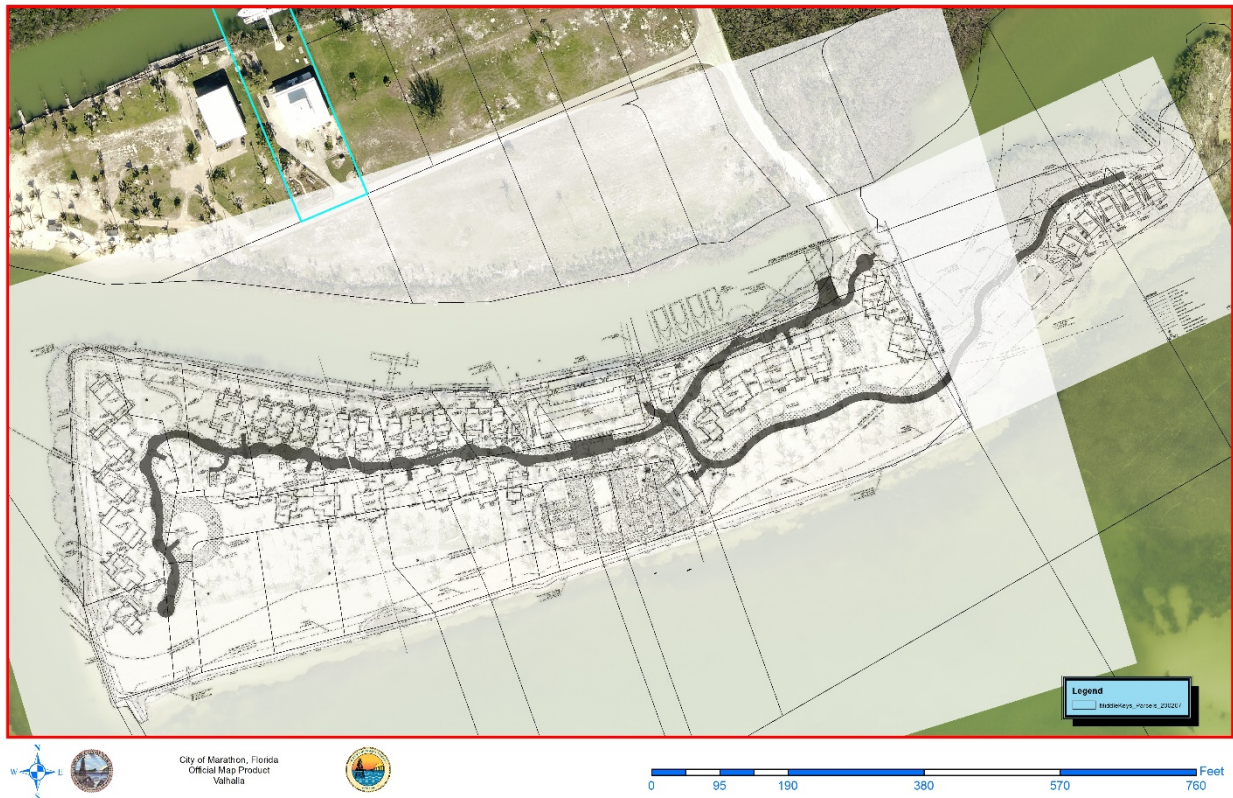
Figure 5
Proposed Redevelopment Site Plan (Ecstasy Portion)



City of Marathon, Florida
Official Map Product
Vahalla



**Figure 6
Proposed Redevelopment Site Plan (Valhalla Portion)**



BACKGROUND:

The proposed project is a redevelopment of the subject property to include the construction of new transient units, restaurant, spa, tennis court, and ancillary structures in the Mixed-Use zoning classification. This report addresses the Conditional Use application, and review is provided and conditioned based upon the recommended changes to FLUM and zoning. **All conditions of the Conditional Use approval will have to be met before any building permit will be approved.**

EVALUATION FOR COMPLIANCE WITH THE LAND DEVELOPMENT REGULATIONS:

The criteria for evaluating a Conditional Use Approval are outlined in Chapter 102, Article 13, Conditional Use Permits, in the City of Marathon Land Development Regulations.

CRITERIA

A. The proposed use is consistent with the Comprehensive Plan and LDRs;

The proposed redevelopment project is located within the Mixed Use (MU) Zoning District. Per Chapter 103, Article 2, Section 103.09 of the Land Development Regulations, the district is

designed to “accommodate a wide variety of commercial and retail activities that will result in the most efficient and attractive use of the City’s historic business district and the US1 Corridor, in an effort to recognize the role of US1 as the City of Marathon’s ‘Main Street.’ The MU district also provides for large-scale retail and commercial business opportunities in other areas, including larger shopping center, specialty shopping centers, individual multi-tenant commercial buildings, automotive services and sales, fast food restaurants, affordable housing uses, transient lodging and other retail establishments that serve the community at large”.

The proposed project consists of the redevelopment and expansion of a previously existing commercial use and is consistent with the Mixed-Use Zoning District. Section 103.15 establishes whether specific uses are allowed as of right, limited, accessory or conditional uses, through Table 103.15.2. That table shows that Hotel/Motel/Resort lodging uses are allowed as Conditional Uses in the MU district. Conditional Use review is intended to allow a broader view of the potential impacts of a project on adjacent uses and on City concurrency related resources such as road capacity, solid waste, sewer, and potable water availability.

Table 103.15.2 in the Land Development Regulations establishes constraints on density and intensity allowed in the MU district based on the types of uses proposed. Using the property area, the proposed uses only require 54% of the site. Table 103.15.3 further qualifies the allowed range of intensities based on the intensity of retail use. For the purposes of review Commercial Recreation, the strictest FAR was used to assess the commercial square footage on the site as a whole. Even using this strictest criteria, the proposed project is compliant.

Development Type	Proposed
Transient Units	110
Commercial FAR	64,554 square feet

Therefore, with the below noted conditions, the request is *in compliance* with the requirements of these sections.

- Approval of Conditional Use is contingent upon rezoning approval of CNA area to be used for parking, registration, and support facilities for the proposed hotel development.

B. The proposed use is compatible with the existing land use pattern and future uses designated by the Comprehensive Plan;

The proposed project is located within the Mixed-Use Commercial Future Land Use District. Policy 1-3.1.4 of the City of Marathon Comprehensive Plan states that the “principal purpose of the Mixed-Use Commercial land use category is to provide for the establishment of mixed-use development patterns and to recognize established mixed use development patterns within the City.” The proposed project includes a redevelopment of an existing conditional use (Hotel, Motel, Resort) into a larger version of said conditional use (Hotel, Motel, Resort), which is consistent with the Mixed-Use classification.

The existing land use pattern in the project vicinity consists of mangroves in conservation land to the east, Atlantic Ocean to the south, Fire Academy, Morgue, FKEC Relay Station and mangroves to the north, and Curry Hammock and conservation land to the west.

There exists a single out parcel within the proposed development area that consists of a single-family residence. The out parcel is zoned the same as the rest of the development, so a vegetative buffer is not required. However, the Applicant proposes a vegetative buffer along the side property lines of the out parcel.

Otherwise, the redevelopment of the site will result in significant improvement to the site development quality, including upgraded landscaping, stormwater management, and architecture. The improvements are expected to have a positive benefit on the surrounding uses and the City of Marathon.

Therefore, with the below conditions, the request is ***in compliance*** with the requirements of these sections.

- Approval of Conditional Use is contingent upon change in FLUM designation of Conservation area to be used for parking, registration, and support facilities for the proposed hotel development

C. The proposed use shall not adversely affect the health, safety, and welfare of the public;

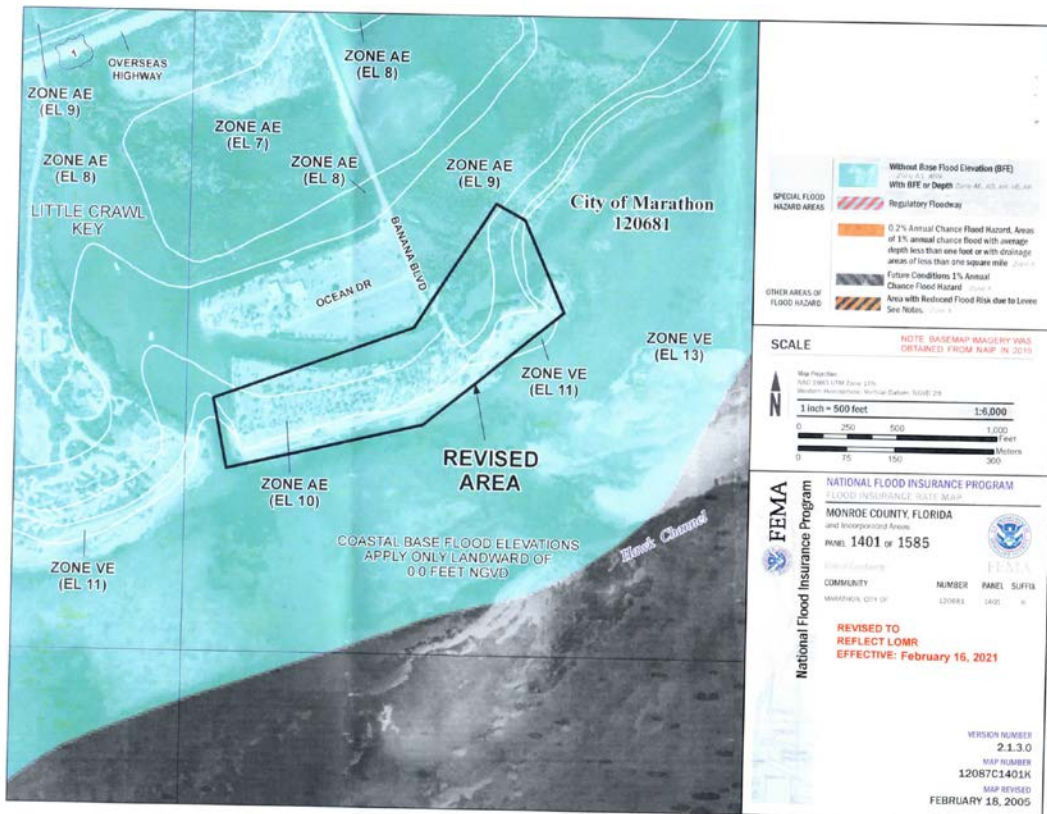
The proposed use is a redevelopment and expansion of a previously existing use which has not had any known impact on the health, safety, and welfare of the public. No new adverse impacts are expected to arise with the redevelopment. The infrastructure on the site will be upgraded and the site heavily landscaped, creating a substantial improvement to the southern end of Grassy Key.

Plans submitted with the project are suitable for the Conditional Use Approval as they relate to Chapter 107, Article 12, 100 Year Floodplain. Two structures are shown to not be flood compliant, however this can be easily rectified during permitting. Final review of floodplain compliance will occur as part of building permit issuance. It should be noted that the property went through the Letter of Map Revision (LOMR) process, and the LOMR 20-04-4546P-120681 became effective as of February 16, 2021.

**Figure 7
Flood Maps**



Figure 8
LOMR



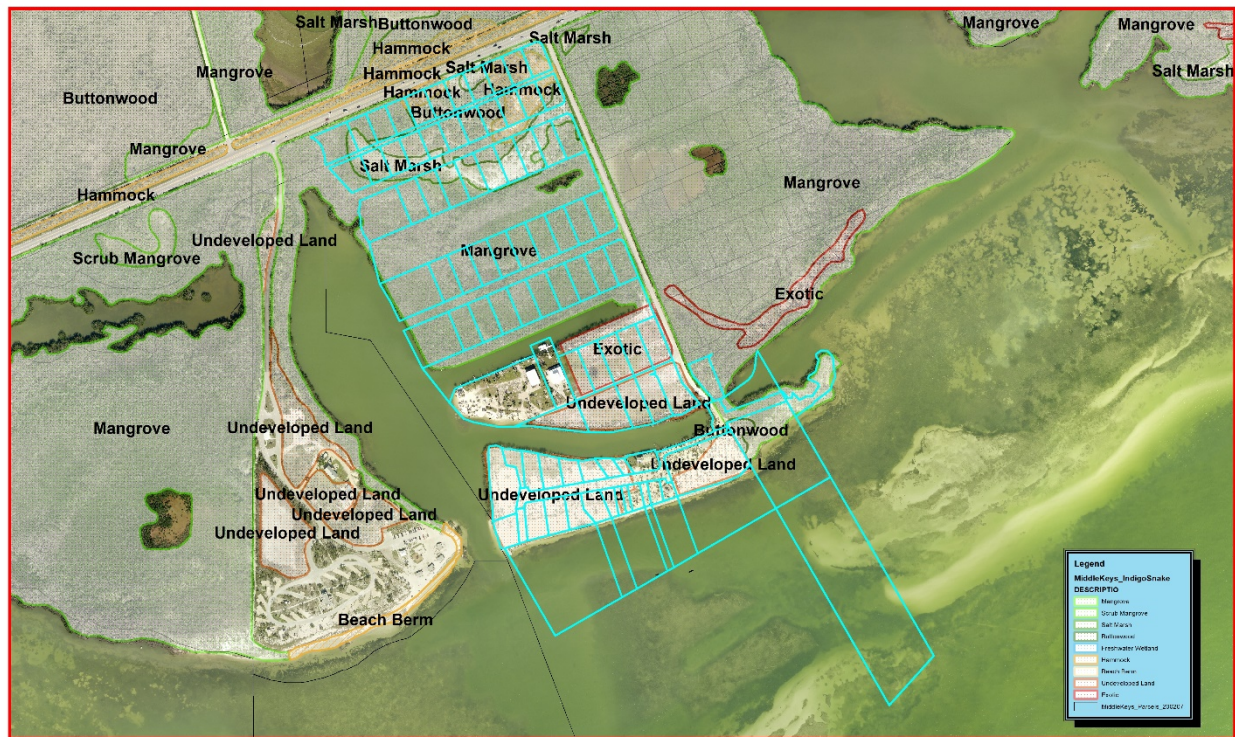
Therefore, the request is *in compliance* with the requirements of these sections.

D. The proposed conditional use minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment:

The existing conditions maps indicate the subject area is designated as developed. A site inspection showed most of the site is scarified with existing buildings. A portion of the property is recognized as possible habitat for a state or federally listed animal species, Stock Island Tree Snail, Tree Cactus and Eastern Indigo Snake. Figure 9 shows all the habitat types that exist in relation to the listed species. The portion of the property closest to US1 and subject to the rezoning and FLUM changes contains uplands, disturbed wetlands, and wetlands. The site plan shows that the proposed parking and back of house facilities will be located out of the undisturbed wetlands. However, portions are shown within areas delineated as disturbed wetlands. Wetland mitigation will then be required for these areas, including outside agency approvals prior to permit issuance.

In addition, though found within a ‘Species Focus Area’ as defined in the settlement agreement for the FEMA-FWS lawsuit, “undeveloped land” falls out of the considerations in the species assessment guides thus having a “not likely to adversely affect” designation on the species of concern, the Eastern Indigo Snake.

**Figure 9
Species Focus Area Habitat**



Further improvements to water quality are expected to arise from stormwater improvements to the

site, which should provide up-to-date treatment and eliminate any existing discharges to surface waters. The applicant has submitted preliminary stormwater plans suitable for the Conditional Use Application, and final plans are required prior to building permit issuance.

Site landscaping will be selected from Table 107.68.1, Appendix A, Article 8, Section 107 of the City of Marathon Code of Ordinances. The native vegetation will improve the environmental quality of the site and reduce irrigation needs. The applicant has submitted a detailed vegetation plan that is compliant with the landscaping requirements.

Therefore, with conditions, the request is ***in compliance*** with the requirements of these sections.

- Staff requires that upon planning review, if the redevelopment is found to have any effect on the Habitat of the Eastern Indigo Snake, Stock Island Tree Snail, or Tree Cactus, then the prescribed protection measures must be undertaken, and the information poster posted on site.
- Applications and approvals must be submitted prior to permit issuance for all external agencies, including but not limited to Army Corps of Engineers (ACOE), Department of Environmental Protection (DEP), South Florida Water Management District (SFWMD).

E. Satisfactory provisions and arrangements have been made concerning the following matters, where applicable:

1. Ingress and egress to the property and proposed structures thereon with particular reference to automotive, bicycle, and pedestrian safety and convenience, traffic flow and control and access in cases of fire or catastrophe;

The applicant has provided a breakdown of the proposed occupancy of the onsite buildings. The “Trip Generation Analysis” schedule provided in the Traffic Study indicates that there will be an increase in trip generation from the existing use to the proposed use for the Motel/Hotel/Resort. The traffic study determined that based on the expected trip generation for the project, there would be no adverse effect on the operating characteristics of U.S. 1. The submitted study finds that the proposed expansion will not inhibit the safe flow of traffic traveling through the City of Marathon.

Table 1 Valhalla Trip Generation Analysis Marathon, Florida											
Land Use	Size	Daily Trips	AM Peak Hour Trips			Mid-Day Peak Hour Trips			PM Peak Hour Trips		
			In	Out	Total	In	Out	Total	In	Out	Total
<i>Proposed</i> Resort Hotel ¹	110 Rooms	453	25	10	35	28	27	55	19	26	45

Compiled by: KBP Consulting, Inc. (March 2021).

Source: Institute of Transportation Engineers (ITE) Trip Generation Manual (10th Edition).

¹ *Trip generation based upon ITE Land Use #330 - Resort Hotel with exception of daily calculations. Due to absence of daily trip generation data for the resort hotel land use, the daily trip generation calculations are based upon ITE Land Use #311 - All Suites Hotel.*

Ingress and egress to the property is being provided through Banana Boulevard onto US1 as well

as an access driveway onto US1. The trip generation analysis of the Valhalla development shows that the project is anticipated to generate 453 daily vehicle trips, 35 AM peak hour vehicle trips (25 inbound and 10 outbound), 55 midday peak hour vehicle trips (28 inbound and 27 outbound) and 45 vehicle trips during the PM peak hour (19 inbound and 26 outbound).

Section 107.43 requires sight triangles where the access drive intersects with the street. Clear sight triangles must be shown on the site plan at time of building permit issuance.

All NFPA codes will have to be met for all structures on site. This is including fire hydrant locations and proper flow requirements for buildings on the property including fire sprinkler systems, access to all buildings for fire apparatus and rescue vehicles. The land bridge is proposed for removal from the island, and as such the access will be provided by a free-standing bridge. The free-standing bridge will be required to support the weight of the City's fire apparatus for access to structures located on the island.

Therefore, with conditions, the request is *in compliance* with the requirements of these sections.

- Clear sight triangles must be shown on the site plan at time of building permit issuance.
- Any landscaping in the DOT ROW will require permits from FDOT.
- All conditions of the Fire Marshal must be met prior to permit issuance.

2. Off-street parking and loading areas where required, with particular attention to item 1 above;

Parking requirements are outlined in Section 107.46 (Parking Schedule). The following table shows the parking requirement for the commercial uses on the parcel:

Uses	Minimum Parking Spaces Required
Spa, gym, or fitness center	3 per 1,000 sq ft GFA
Hotel or Motel	1 per every 3 employees, plus 1 per guest room, required parking for accessory uses
Restaurant	1 per 3 seats, plus required stacking spaces, plus 1 per every 2 employees on the largest shift

Section 107.50 allows for the reduction in the numbers of required parking spaces, which have different peak hour demands. As with previous projects of a similar nature, restaurant and spa guests are primarily guests of the hotel.

Section 107.52 includes a requirement that one handicapped space be provided for every 25 spaces required. Of the 163 proposed spaces, 7 handicapped spaces are required, and 5 are shown on the plans. The two additional ADA spaces must be shown on the plans prior to permit issuance. Parking space sizes are 9' x 18' for 90-degree parking, and handicapped spaces are 12' x 21' as required by Code. The proposed site plan is consistent with the code requirements for parking and

aisle width.

The Code also requires bicycle parking to be provided for educational facilities, multifamily dwellings, commercial, institutional, and industrial uses, as well as all developments adjacent to a bike path, at a rate of one space for every ten parking spaces, per Section 107.48. The final site plan must show a minimum of 16 bicycle parking spaces.

Therefore, with the conditions noted above, the request is **in compliance** with the requirements of these sections.

3. The noise, glare, or odor effects of the conditional use on surrounding properties;

The proposed project consists of redevelopment of a previously existing commercial use. New lighting will be necessary for this project. The applicant has provided a typical lighting plan which conforms to the City of Marathon LDR's. A more detailed lighting plan must be submitted for permitting purposes. The applicant's detailed plans should achieve the net result of no detrimental noise, glare or odors being generated by any of the uses. The addition of the dense landscape buffering around the site will reduce the noise, odor, and glare.

Therefore, with conditions, the request is **in compliance** with the requirements of this section.

- A detailed lighting plan must be submitted before the project is permitted.

4. Refuse and service areas, with particular reference to locations, screening, and Items 1 and 2 above;

Section 107.39 requires that all dumpsters and recycling bins be fully enclosed and screened. The site plan indicates that the dumpsters are screened.

Therefore, the request is **in compliance** with the requirements of this section.

5. Utilities, with reference to location and availability;

Chapter 107, Article 13, establishes the City's Concurrency Management and certification requirements. This Conditional Use constitutes the City's Concurrency Level of Service Certificate, as follows:

- Wastewater: The applicant is currently working with the Utilities department to accommodate the wastewater needs and assess any additional impacts and wastewater fees.
- Water: The Florida Keys Aqueduct Authority currently provides potable water for the facility. Staff recommends a separate meter for irrigation, landscaping, and pool.
- Solid Waste: Marathon Garbage Service currently provides solid waste disposal.
- Surface Water: The applicant has provided stormwater design information suitable for the Conditional Use application review which demonstrates compliance with City standards. However, a final stormwater plan will be required for building permit issuance.

- Recreation and Open Space: This redevelopment will have a de minimis impact on recreation and open space as the applicant is planning to utilize open space areas for trails and recreation.
- Roadways: The applicant is redeveloping the site with a higher intensity than was contained within the prior development; therefore, a traffic study was completed to analyze the impact on transportation facilities.
- Educational Facilities: This redevelopment will have a de minimis impact on educational facilities as transient uses have little use of schools.

Therefore, with conditions, the request is ***in compliance*** with the requirements of these sections.

- City approval is required for the stormwater management system prior to Building Permit Approval.
- The City recommends a separate meter for irrigation, landscaping, and pool.
- There is no objection from the City to proposing a private vacuum sewer system to service the site.
- The applicant will finalize anticipated sewer flow based on site plan and proposed usage.
- City to provide pump specifications for lift stations upstream of the project.
- City to provide available capacity at the wastewater treatment plant.
- City to provide operating pressures at tie in location (typically 35-40 psi).
- Upsizing the forcemain from 2” to 4” will be required for approximately 5200LF from the site continuing north/east along Overseas Highway

6. Screening and buffering with reference to type, dimensions and character;

Table 107.66.1 establishes project boundary buffer standards applicable to the project. The subject parcel is zoned MU and is bordered to the North by properties zoned C-NA. Therefore, a High buffer type is required. The preliminary landscape plans show that this buffer is maintained. The final landscape plans must be approved by the City Biologist.

Section 107.71 A. requires that parcels with a MU zoning designation provide a Type 1 Streetscape Treatment for all parcels along US 1. The proposed landscape plan exceeds the minimum requirements. According to the Code, four canopy trees shall be planted in and about access points. In addition, smaller accent trees shall be planted every 120 feet and staggered midway between the large canopy trees. Additionally, all parking not located to the rear of buildings shall be screened from the right-of-way by a landscaped buffer along US1, including a continuous hedge or combination hedge and earth berm providing a three-foot high visual screen within two (2) years of planting.

Table 103.15.2 outlines setback requirements in the MU district as follow: front yard 0 – 30’; side yard 1, 0 – 10; interior side yard, 10; and, street side, 0-5’. Accessory structures, including pools, have a 10’ setback.

Table 106.28.1 outlines setbacks requirements for a principal structure on a manmade canal as 20’ measured from the Mean High-Water Line, and that a principal structure on open water altered shoreline with a mangrove fringe is 30’ measured from MHWL or the landward extent of the

mangrove fringe.

This plan shows an approximate 125' setback on the front yard, 10' setback on the western side, and 10' setback on the eastern side and 20' setback from the altered shoreline, measured from MHWL or mangrove fringe.

Setback	Required	Required Landscape	Proposed	Compliant
Front	30	10	125	Y
East Side	10	N/A	10	Y
West Side	10	N/A	10	Y
Shoreline	20	N/A	20*	Y

*Some structures have stairs shown within the 20' setback, the stairs/structures will need to be shifted to meet the setback prior to permit issuance.

Parking area landscaping is required by Section 107.66 of the Code. The City Biologist has reviewed the submitted parking area landscape plan and has found it to be in compliance with the code.

Therefore, the request is **in compliance** with the requirements of these sections.

7. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety and compatibility with surrounding uses;

A review of sign requirements at this stage in development approval is not necessary. Signs for the project will be reviewed prior to issuance of a building permit according to Chapter 107, Article 7, Signs.

Article 107.54 establishes criteria for lighting, including light pole light limitations and other technical criteria. Final lighting plans will be submitted along with final landscaping plans and will include verification from the landscape architect that all provisions of the article are met.

Therefore, the request is **in compliance** with the requirements of these sections.

- All signs will be reviewed and approved for compliance with the City of Marathon LDR's.
- A final lighting plan must be submitted prior to building permit issuance.
- A final landscaping plan must be submitted prior to building permit issuance.

8. Required yards and other open space;

Section 106.16 established required open space for the project. The majority of the site is scarified; therefore, a twenty percent open space requirement applies. According to calculations provided by the applicant, 497,890.8 square feet of pervious area (including landscape area), or 43.9% of the site, is provided as open space. This exceeds the open space requirement.

Therefore, the request is **in compliance** with the requirements of these sections.

9. General compatibility with surrounding properties; and

The project is a redevelopment of a previously existing use. Adjacent uses include a residential use, conservation lands, public uses, and a State Park. A redevelopment and expansion of the hotel use is expected to be fully compatible with these uses. The proposed project represents improvement to the current state of prior development and is expected to increase compatibility with surrounding properties.

Section 107.40 restricts the height of buildings to 42' as measured from the crown of the roadway or unimproved grade. The site plans show that the majority of buildings are under 42'; however, the lodge building is shown to be 54'4" tall. The building types A & B are 27'11", building type C is 31'4", building type D is 29'1", building type E is 33'4", building type F is 37'9", building type G is 36'3", building type H is 32'10", building type I is 54'4", building type J is 33'3", and building type K is 28'4". However, the portions of the structure that go above the 42' are uninhabitable decorative elements, which are an exception according to the code.

Therefore, the request is *in compliance* with the requirements of these sections.

10. Any special requirements set forth in the LDRs for the particular use involved.

Section 104.25 Hotels or Motels contains special requirements.

A. General Provisions:

1. Reserved.

2. Each hotel or motel shall comply with all mandatory hurricane evacuation requirements set forth by the City for hotel, motel, and other transient uses.

3. Each hotel or motel shall establish and maintain shuttle transport services to airports and tourist attraction individually or in conjunction with other hotel or motel operators.

4. Except as provided in Subsection (a), all hotel or motels shall provide on- or off-site employee housing living space in an amount equal to a minimum of 20 percent (as may be adjusted from time to time by Council policy to reflect economic conditions) of the approved floor area in guest units; and such housing shall be of any of the following types as outlined in (b) below:

(a) An exception to the requirement for on- or off-site employee housing living space for hotel/motel redevelopment may be recommended by the Planning Director, the Planning Commission, and approved by the City Council as part of a conditional use and/or development agreement when the following criteria are met:

1. No increase in the number of hotel/motel transient units (unit as described in Subsection 104.25A.5. of the LDRs) if existing hotel/motel unit density is non-conforming as defined in Chapter 108, Article 3 of the LDRs and as specifically outlined in Section 108.12 of the LDRs;

2. No use of transferable building rights (TBRs) (as described specifically in Subsection 107.14B. of the LDRs);

3. No significant change (+ or - 10%) in the current project floor area (Floor area as defined in Chapter 110, Article 3 of the LDRs);

4. No significant difference between the current and proposed uses of floor

area;

5. No effort to move units off-site through TBRs as part of the proposed project, though they may be documented and preserved for future use; and

6. No significant change or increase in the size or type of project site amenities.

(b) Housing types:

1. Dormitory;

2. Studio; or

3. One (1) or two (2) bedroom units.

5. All entrances to a hotel or motel unit shall share the same key or means of controlling access so that the hotel or motel room as defined herein is not divisible into separately rentable units.

The applicant has submitted applications for TBRs of transient rights from three properties. Two of the said properties have existing structures that can be used for affordable housing upon receipt of the affordable allocations. These amount to 4,654 and 3,677 square feet, respectively. The applicant must provide housing totaling at least 13,630.6 square feet. Therefore, the applicant will have to construct an additional 5,299.6 square feet of affordable housing, which can be applied for on the third property mentioned above.

The following criteria are applicable to this redevelopment:

- There is no parking for boats/trailers on the property and it is not planned. Should that change, the applicant must provide boat trailer parking off site.
- The Applicant must obtain and transfer all needed transient and affordable housing units, to be transferred via the Transfer of Building Rights (TBR's), BPAS process, or any other legally established process prior to building permit issuance. **THE APPROVAL OF THE REQUESTED CONDITIONAL USE PERMIT DOES NOT CONVEY OR GRANT A VESTED RIGHT OR ENTITLEMENT TO FUTURE ALLOCATIONS BY THE CITY OF ANY RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT.**
- As a condition of redevelopment, the developer and the City shall enter into a Development Agreement, in addition to compliance with all other provisions of the Code.
- Applicant shall comply with all mandatory hurricane evacuation requirements set forth by the City for hotel, motel, and other transient uses.
- Applicant shall establish and maintain shuttle transport services to airports and tourist attraction individually or in conjunction with other hotel or motel operators.
- Applicant shall provide on- or off-site employee housing living space in an amount equal to a minimum of 20 percent (as may be adjusted from time to time by Council policy to reflect economic conditions) of the approved floor area in guest units.
- All entrances to a hotel or motel unit shall share the same key or means of controlling access so that the hotel or motel room as defined herein is not divisible into separately rentable units.
- The Conditional Use Development Order will constitute the Certificate of Concurrency

for the project. The determination will be valid for one year.

Therefore, with the conditions noted above, the request is ***in compliance*** with the requirements of this section.

CONCLUSION:

The Conditional Use Approval is intended to allow for the integration of certain land uses and structures within the City of Marathon based on conditions imposed by the Council. Review is based primarily on compatibility of the use with its proposed location and with surrounding land uses. Conditional uses shall not be allowed where the conditional use would create a nuisance, traffic congestion, a threat to the public health, safety, or welfare of the community.

The proposed redevelopment consists of the replacement and enhancement of a long standing existing commercial use. As such the development, including the overall upgrading and improvement of the site, furthers the policies for development in the City and is consistent with the Comprehensive Plan and Land Development Regulations. The project is compatible with surrounding uses, and is not expected to create a nuisance, traffic congestion or threat to public, health, safety, or welfare.

RECOMMENDATION:

Planning staff recommends that the Planning Commission forward a recommendation of conditional approval of the Motel/Hotel/Resort to the City Council. The proposed conditions of approval are listed below.

Conditions of Approval

1. Approval of Conditional Use is contingent upon rezoning approval of CNA area to be used for parking, registration, and support facilities for the proposed hotel development.
2. Approval of Conditional Use is contingent upon change in FLUM designation of Conservation area to be used for parking, registration, and support facilities for the proposed hotel development.
3. Staff requires that upon planning review, if the redevelopment is found to have any effect on the Habitat of the Eastern Indigo Snake, Stock Island Tree Snail, or Tree Cactus, then the prescribed protection measures must be undertaken, and the information poster posted on site.
4. Applications and approvals must be submitted prior to permit issuance for all external agencies, including but not limited to Army Corps of Engineers (ACOE), Department of Environmental Protection (DEP), South Florida Water Management District (SFWMD).
5. Clear sight triangles must be shown on the site plan at time of building permit issuance.
6. Any landscaping in the DOT ROW will require permits from FDOT.
7. All conditions of the Fire Marshal must be met prior to permit issuance.
8. A detailed lighting plan must be submitted before the project is permitted.
9. City approval is required for the stormwater management system prior to Building Permit Approval.
10. The City recommends a separate meter for irrigation, landscaping, and pool.
11. There is no objection from the City to proposing a private vacuum sewer system to

service the site.

12. The applicant will finalize anticipated sewer flow based on site plan and proposed usage.
13. City to provide pump specifications for lift stations upstream of the project.
14. City to provide available capacity at the wastewater treatment plant.
15. City to provide operating pressures at tie in location (typically 35-40 psi).
16. Upsizing the forcemain from 2" to 4" will be required for approximately 5200LF from the site continuing north/east along Overseas Highway
17. All signs will be reviewed and approved for compliance with the City of Marathon LDR's.
18. A final lighting plan must be submitted prior to building permit issuance.
19. A final landscaping plan must be submitted prior to building permit issuance.
20. There is no parking for boats/trailers on the property and it is not planned. Should that change, the applicant must provide boat trailer parking off site.
21. The Applicant must obtain and transfer all needed transient and affordable housing units, to be transferred via the Transfer of Building Rights (TBR's), BPAS process, or any other legally established process prior to building permit issuance. **THE APPROVAL OF THE REQUESTED CONDITIONAL USE PERMIT DOES NOT CONVEY OR GRANT A VESTED RIGHT OR ENTITLEMENT TO FUTURE ALLOCATIONS BY THE CITY OF ANY RESIDENTIAL UNITS NOT CURRENTLY IN POSSESSION BY THE APPLICANT AS REFERENCED IN THE PROPOSED CONDITIONAL USE PERMIT.**
22. As a condition of redevelopment, the developer and the City shall enter into a Development Agreement, in addition to compliance with all other provisions of the Code.
23. Applicant shall comply with all mandatory hurricane evacuation requirements set forth by the City for hotel, motel, and other transient uses.
24. Applicant shall establish and maintain shuttle transport services to airports and tourist attraction individually or in conjunction with other hotel or motel operators.
25. Applicant shall provide on- or off-site employee housing living space in an amount equal to a minimum of 20 percent (as may be adjusted from time to time by Council policy to reflect economic conditions) of the approved floor area in guest units.
26. All entrances to a hotel or motel unit shall share the same key or means of controlling access so that the hotel or motel room as defined herein is not divisible into separately rentable units.
27. The Conditional Use Development Order will constitute the Certificate of Concurrency for the project. The determination will be valid for one year.

Attachments:

Attachment A: Proposed Site Plan

VALHALLA RESORT

Johnny Morris
SIGNATURE RESORTS
VALHALLA ISLAND,
CRAWL KEY
MONROE CO, FLORIDA

SITE PLAN SUBMISSION

MARCH 26, 2021



NUNZIO MARC DESANTIS ARCHITECTS

1617 HI LINE DRIVE, SUITE 190

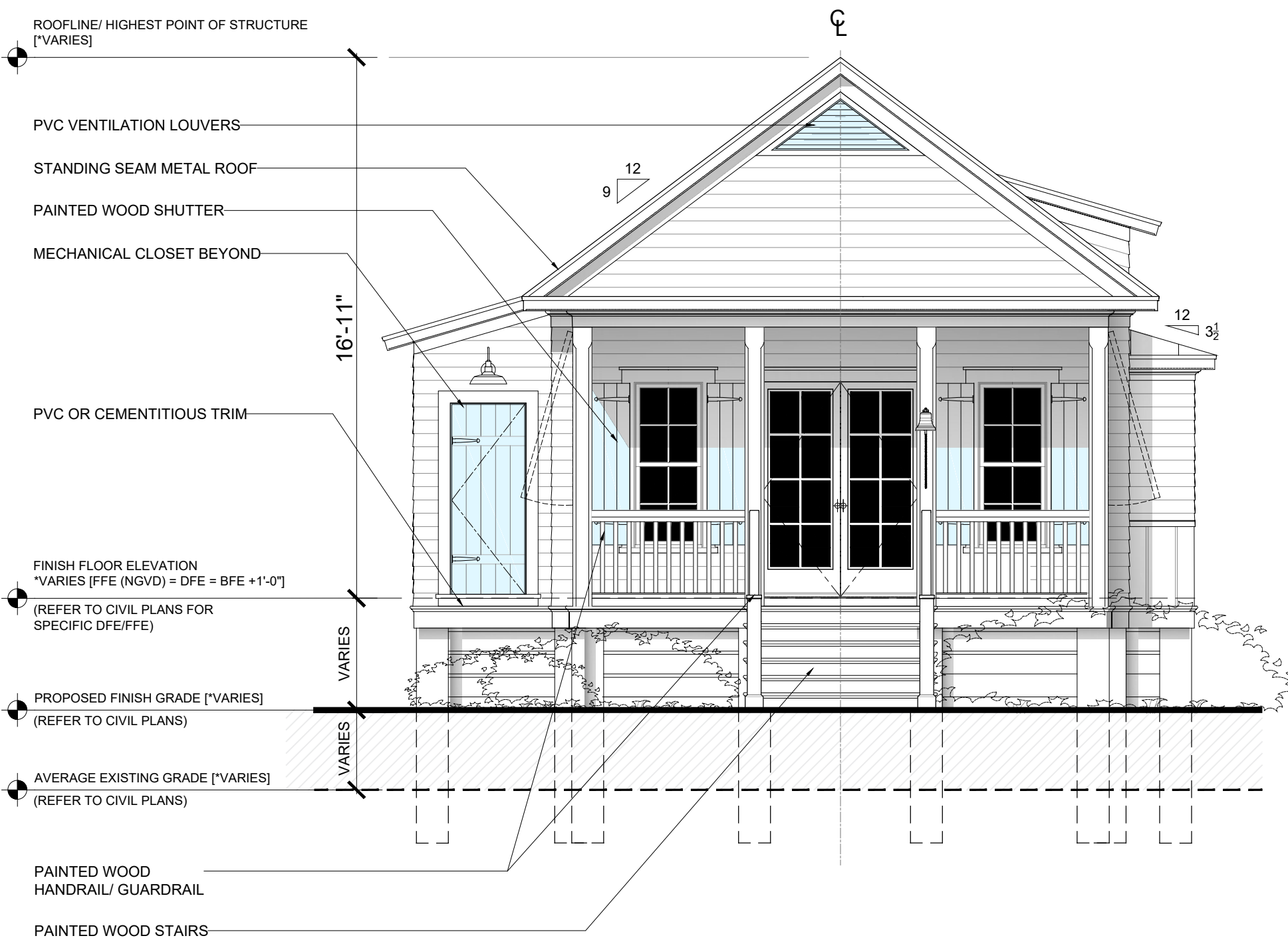
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PHONE: +1.469.730.0370

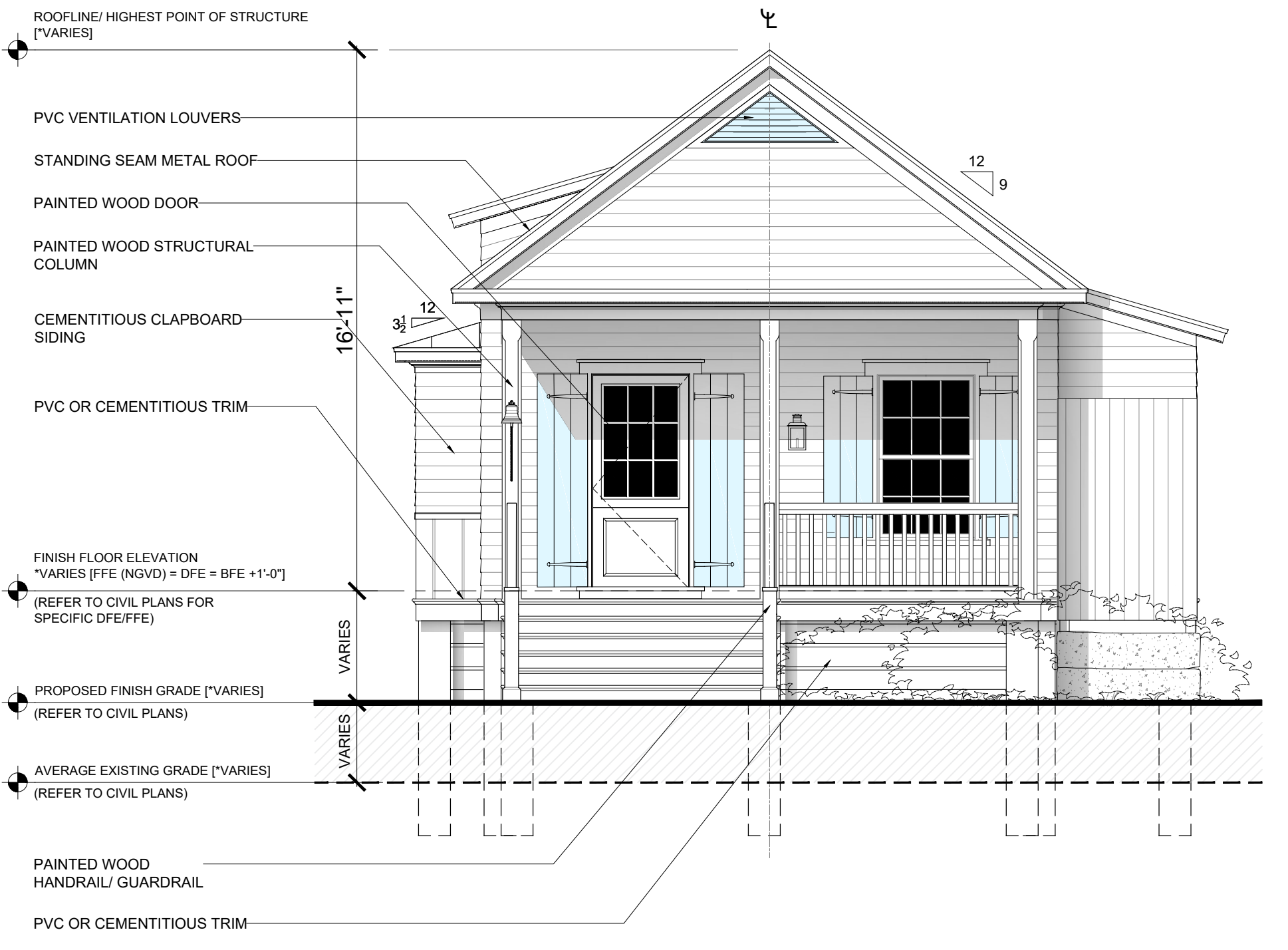
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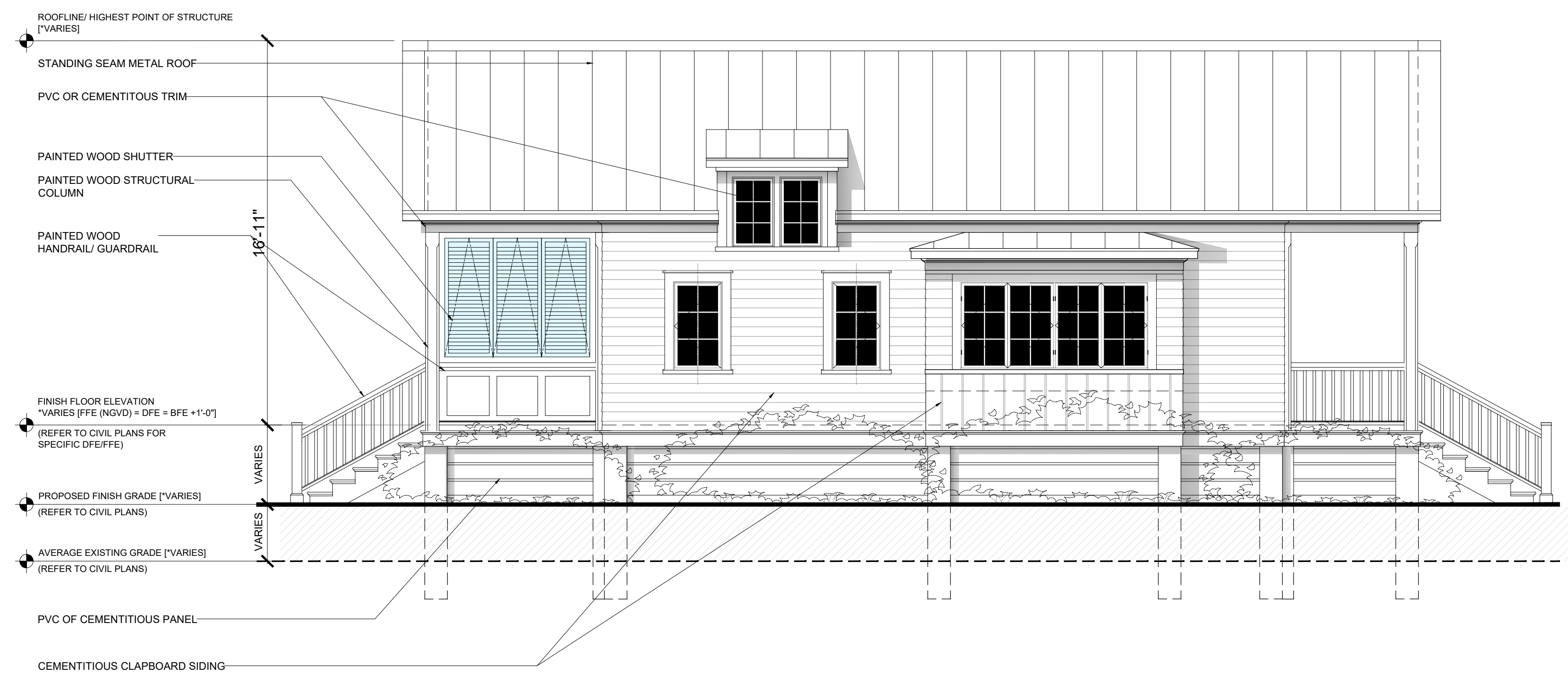
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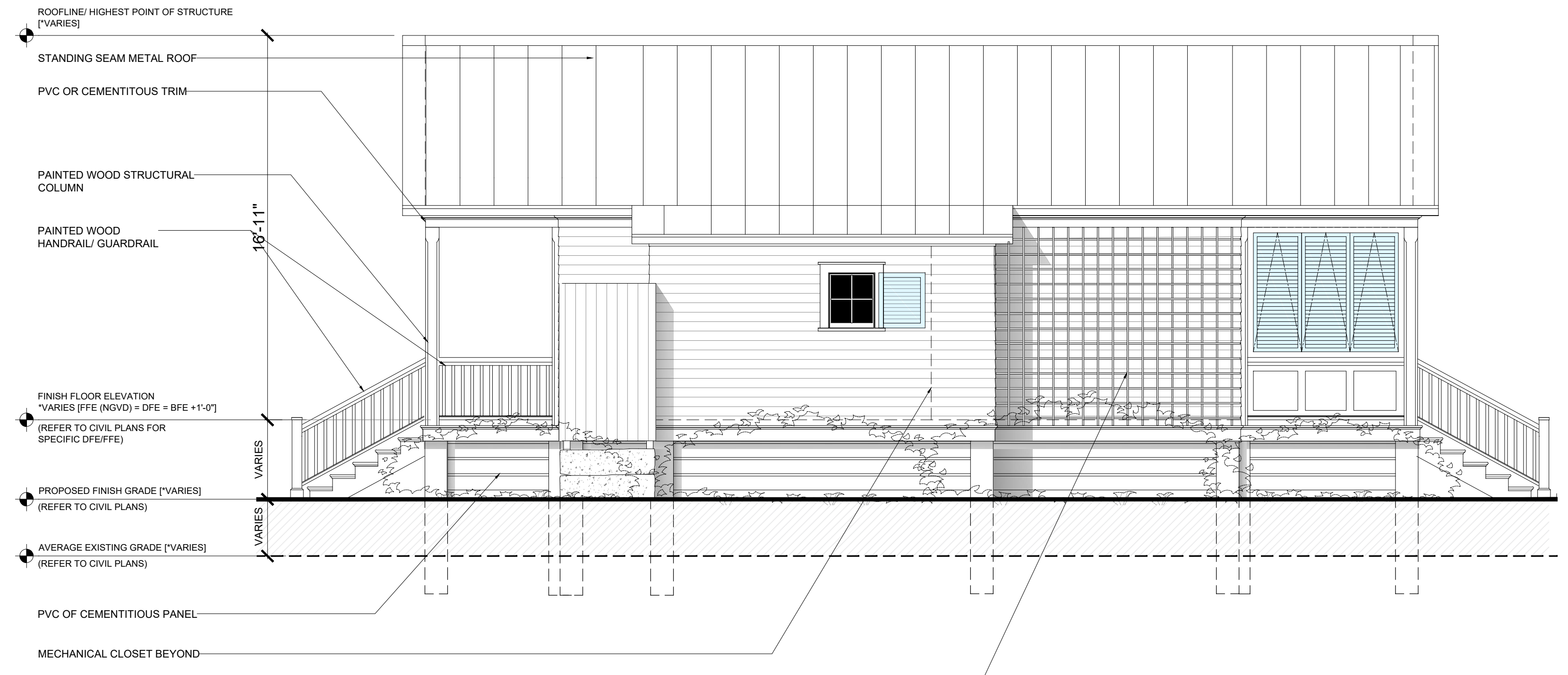
04 BACK ELEVATION
SCALE 1/4"=1'-0"



02 FRONT ELEVATION
SCALE 1/4"=1'-0"



03 SIDE ELEVATION
SCALE 1/4"=1'-0"



01 SIDE ELEVATION
SCALE 1/4"=1'-0"



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MIAMI, FL 33145
PHONE: 786-497-1500

NOT FOR CONSTRUCTION

SITE PLAN SUBMISSION 03-26-2021

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VALHALLA RESORT
VALHALLA ISLAND,
CRAWL KEY
MONROE CO, FLORIDA

PROJECT NO. A10041
DRAWING TITLE

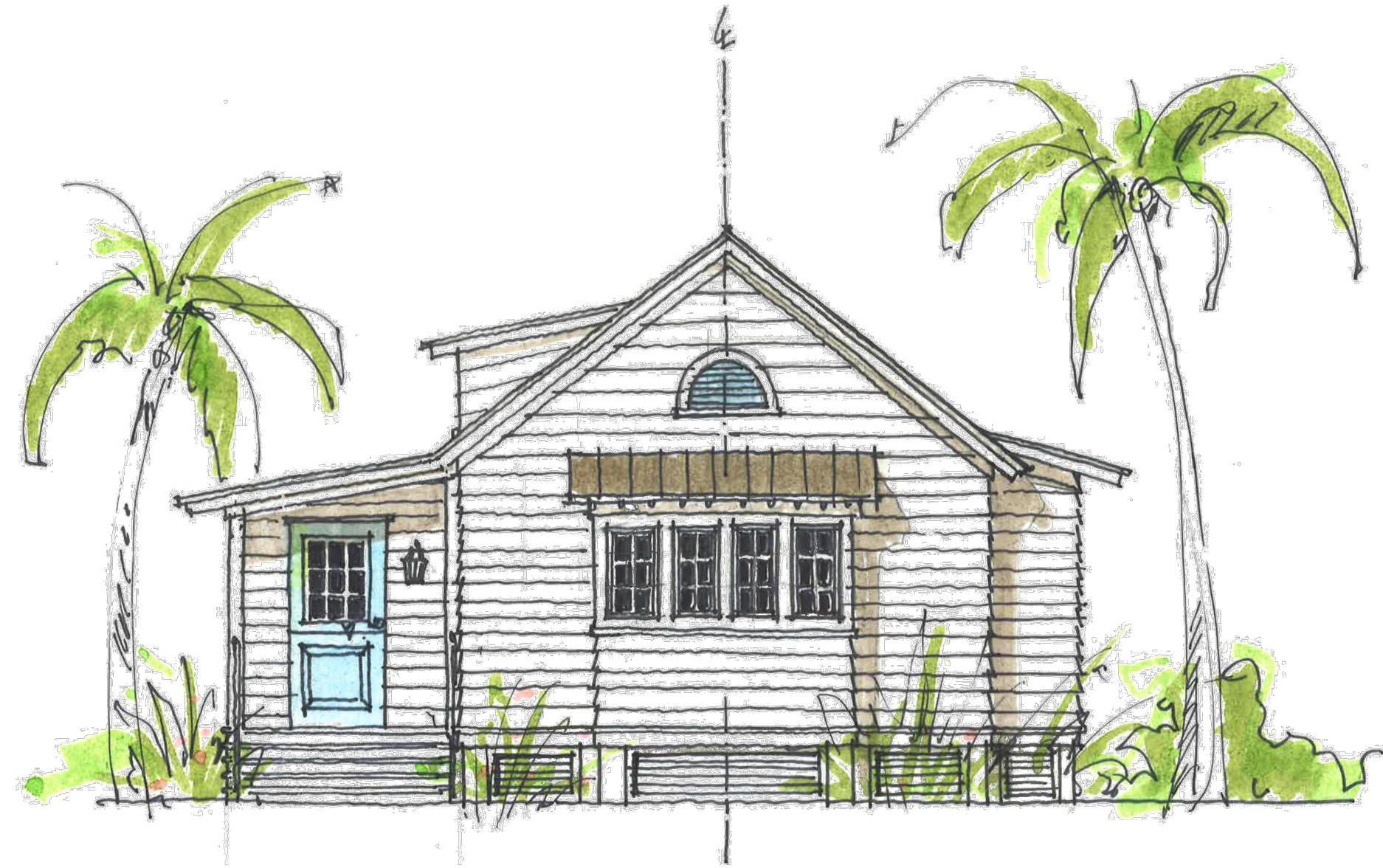
BUNKIE
(BUILDING TYPE "A")

REVISIONS

NO.:	DESCRIPTION:	DATE:

SHEET NO.

A_A2.01



04 CONCEPT MATERIAL STUDY
NOT TO SCALE

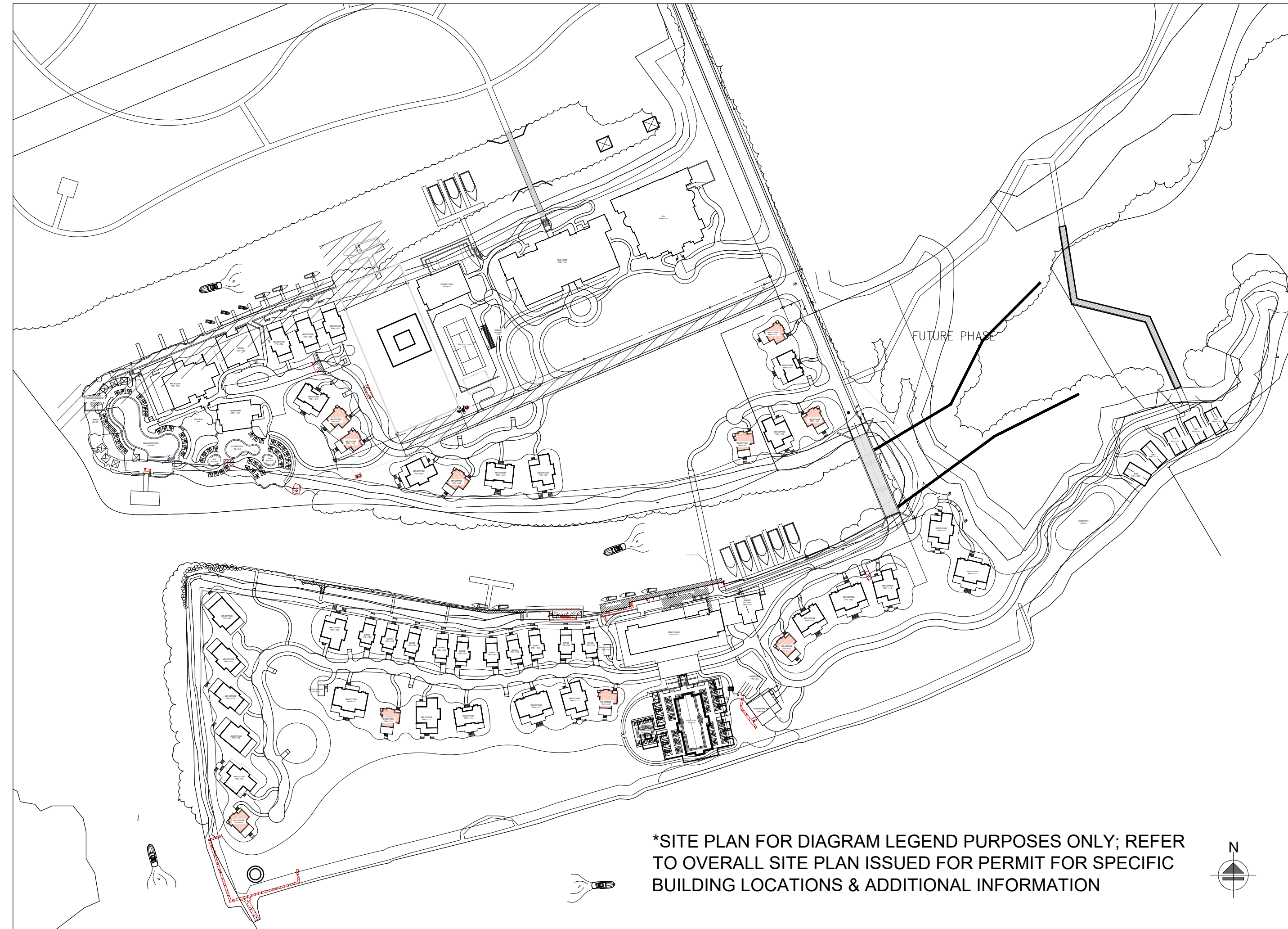


03 MASSING MODEL
NOT TO SCALE



02 RENDERING
NOT TO SCALE

LEGEND
■ BUILDING TYPE "B" LOCATION



01 SITE PLAN LEGEND
SCALE 1/128"=1'-0"

BUILDING AREA SUMMARY	
• INTERIOR AREA:	552 SQFT
• EXTERIOR AREA:	218 SQFT
• TOTAL BUILDING FOOTPRINT:	914 SQFT

BUILDING TYPE "B" SUMMARY

- QUANTITY: **10 UNITS**
- NUMBER OF STORIES: **1 STORY**
- OVERALL BUILDING HEIGHT: **VARIES* REFER TO NOTE, MAXIMUM HEIGHT = +27'-11" NGVD**
- TYPE OF CONSTRUCTION: **TYPE VB CONSTRUCTION, PROTECTED WITH AN AUTOMATIC SPRINKLER SYSTEM IN ACCORDANCE WITH 2020 FBC SECTION 903.2.8**

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 FOR FINISHED FLOOR & DESIGN FLOOD ELEVATION, SEE DRAWINGS BY CIVIL ENGINEER.



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SITE PLAN SUBMISSION 03-26-2021

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VALHALLA RESORT

VALHALLA ISLAND,
 CRAWL KEY
 MONROE CO, FLORIDA

PROJECT NO. A10041
 DRAWING TITLE

**ONE BEDROOM
 (BUILDING TYPE "B")**

REVISIONS		
NO.:	DESCRIPTION:	DATE:

SHEET NO.
A_B1.01



04 CONCEPT MATERIAL STUDY
NOT TO SCALE

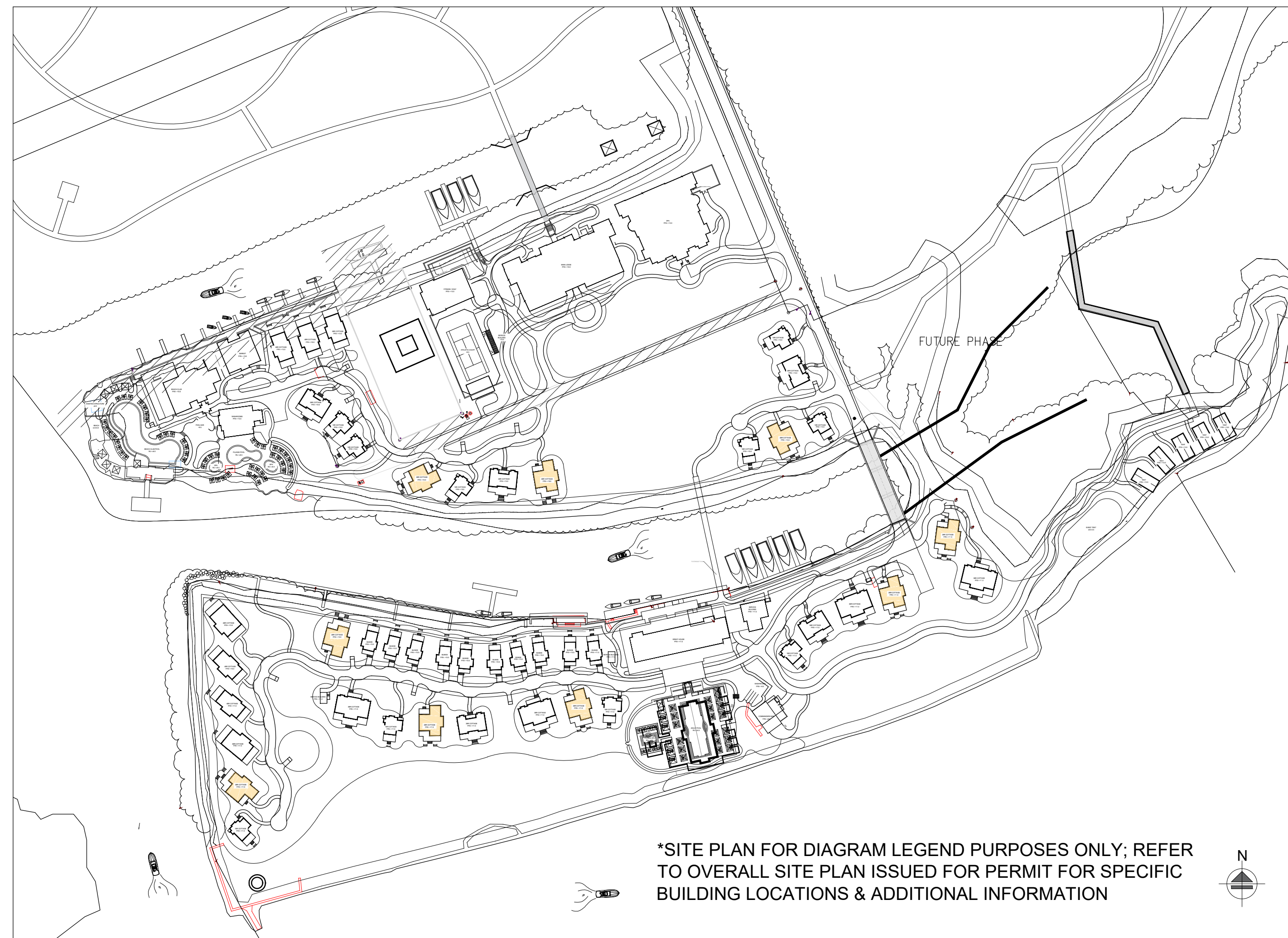


03 MASSING MODEL
NOT TO SCALE



02 RENDERING
NOT TO SCALE

LEGEND
■ BUILDING TYPE "C" LOCATION



01 SITE PLAN LEGEND
SCALE 1/128"=1'-0"

BUILDING AREA SUMMARY
• INTERIOR AREA: 1,078 SQFT
• EXTERIOR AREA: 448 SQFT
• TOTAL BUILDING FOOTPRINT: 1,737 SQFT

BUILDING TYPE "C" SUMMARY

- QUANTITY: **9 UNITS**
- NUMBER OF STORIES: **1 STORY**
- OVERALL BUILDING HEIGHT: **VARIABLE* REFER TO NOTE, MAXIMUM HEIGHT = +31'-4" NGVD**
- TYPE OF CONSTRUCTION: **VB CONSTRUCTION, PROTECTED WITH AN AUTOMATIC SPRINKLER SYSTEM IN ACCORDANCE WITH 2020 FBC SECTION 903.2.8**

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VALHALLA RESORT

VALHALLA ISLAND,
 CRAWL KEY
 MONROE CO, FLORIDA

PROJECT NO. A10041
 DRAWING TITLE

**TWO BEDROOM
 (BUILDING TYPE "C")**

REVISIONS		
NO.:	DESCRIPTION:	DATE:

SHEET NO.

A_C1.01

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04 BACK ELEVATION
SCALE 1/4"=1'-0"

03 SIDE ELEVATION
SCALE 1/4"=1'-0"



02 FRONT ELEVATION
SCALE 1/4"=1'-0"

01 SIDE ELEVATION
SCALE 1/4"=1'-0"

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SITE PLAN SUBMISSION 03-26-2021

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VALHALLA RESORT
VALHALLA ISLAND,
CRAWL KEY
MONROE CO, FLORIDA

PROJECT NO. A10041
DRAWING TITLE

**TWO BEDROOM
(BUILDING TYPE "C")**

REVISIONS
NO. DESCRIPTION DATE

SHEET NO.

A_C2.01

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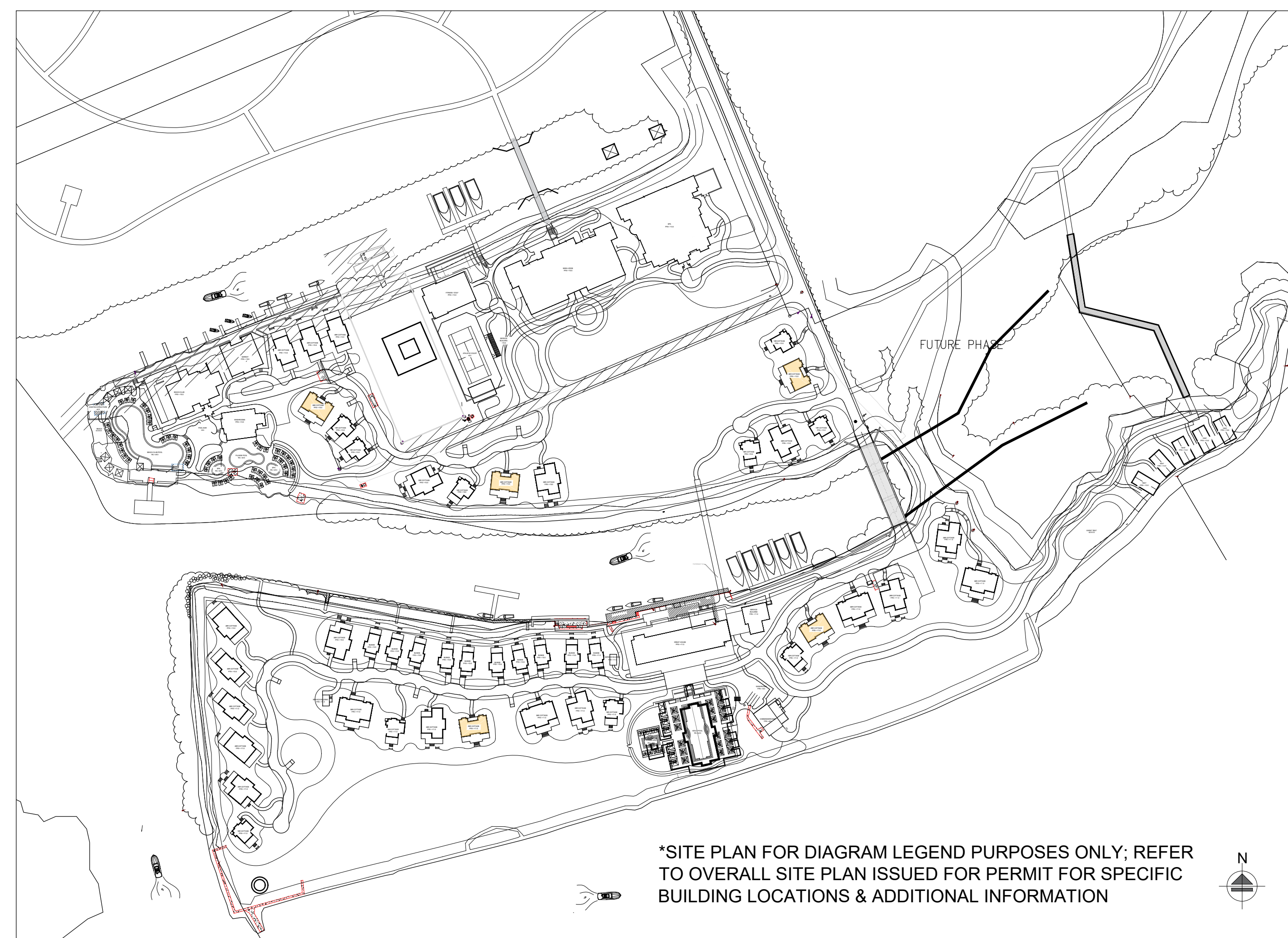
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LEGEND
 BUILDING TYPE "D" LOCATION



*SITE PLAN FOR DIAGRAM LEGEND PURPOSES ONLY; REFER TO OVERALL SITE PLAN ISSUED FOR PERMIT FOR SPECIFIC BUILDING LOCATIONS & ADDITIONAL INFORMATION

01 SITE PLAN LEGEND
 SCALE 1/128"=1'-0"

BUILDING AREA SUMMARY

- INTERIOR AREA: 893 SQFT
- EXTERIOR AREA: 505 SQFT
- TOTAL BUILDING FOOTPRINT: 1,584 SQFT

BUILDING TYPE "D" SUMMARY

- QUANTITY: **5 UNITS**
- NUMBER OF STORIES: **1 STORY**
- OVERALL BUILDING HEIGHT: **VARIES* REFER TO NOTE, MAXIMUM HEIGHT = +29'-1" NGVD**
- TYPE OF CONSTRUCTION: **VB CONSTRUCTION, PROTECTED WITH AN AUTOMATIC SPRINKLER SYSTEM IN ACCORDANCE WITH 2020 FBC SECTION 903.2.8**

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03 MASSING MODEL
 NOT TO SCALE



02 RENDERING
 NOT TO SCALE

VALHALLA RESORT

VALHALLA ISLAND,
 CRAWL KEY
 MONROE CO, FLORIDA

PROJECT NO. A10041
 DRAWING TITLE

**TWO BEDROOM
 (BUILDING TYPE "D")**

REVISIONS		
NO.:	DESCRIPTION:	DATE:

SHEET NO.

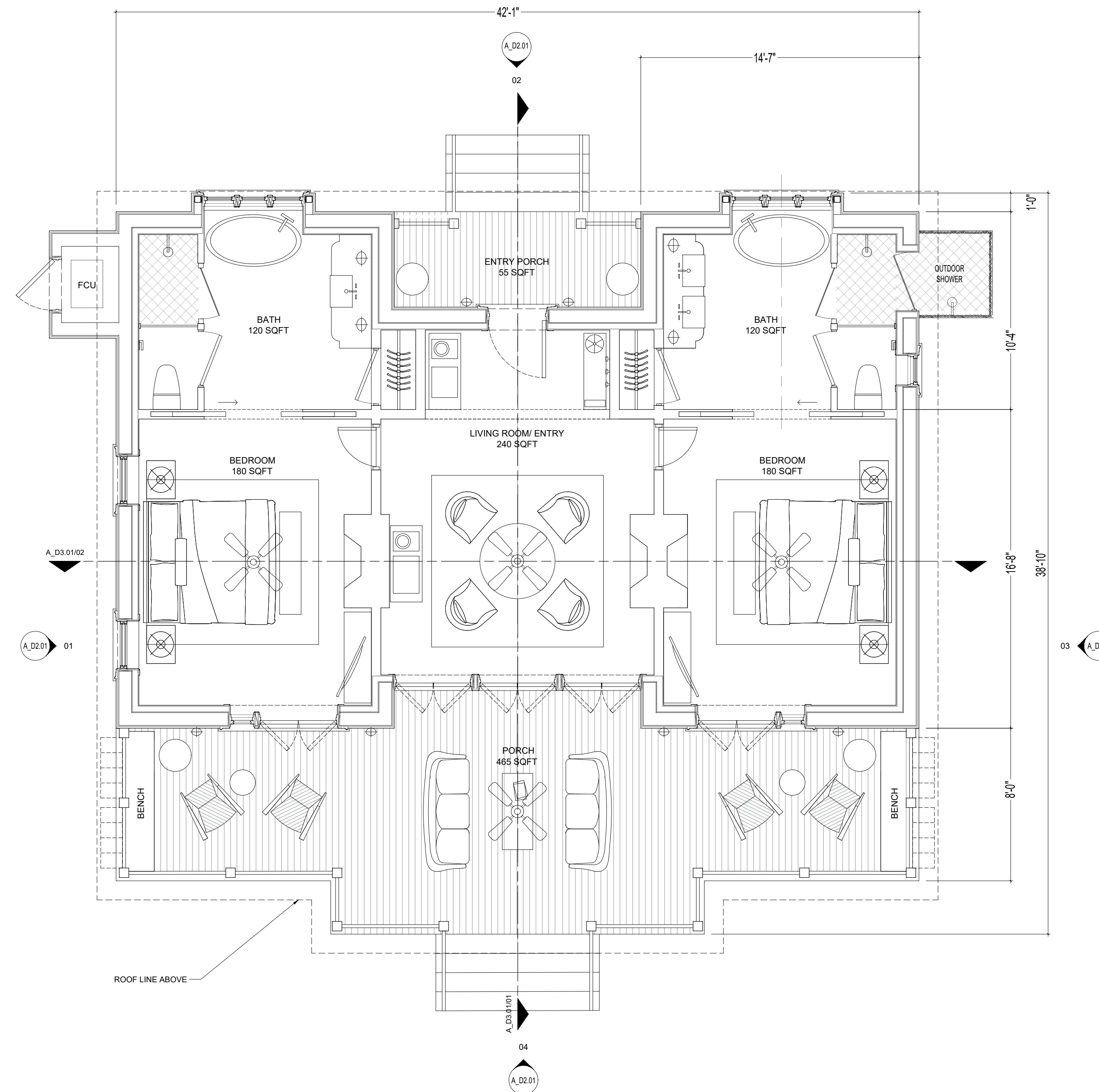
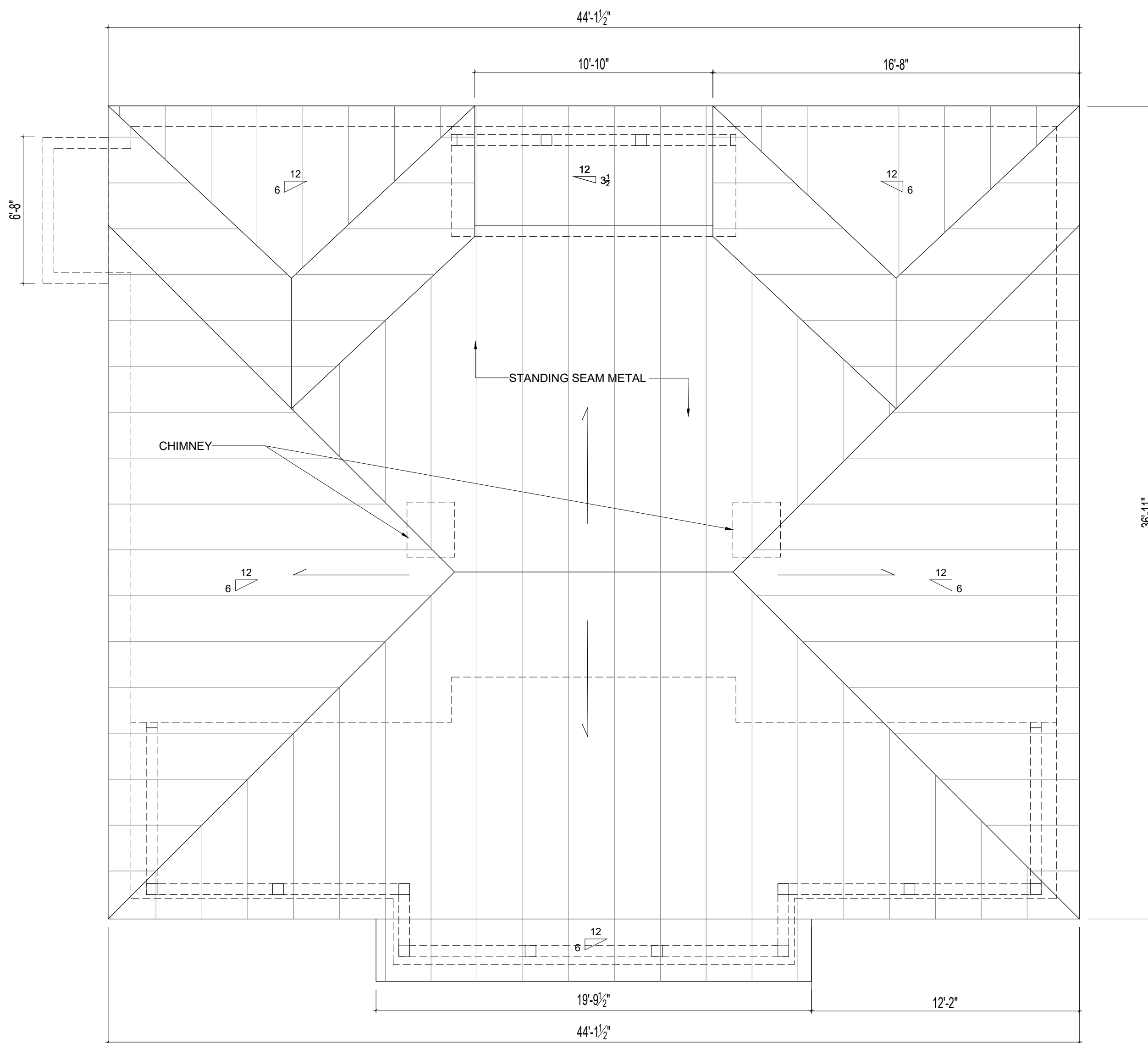
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PLAN NOTE:

*DESIGN FLOOD ELEVATION (DFE) NGVD = BASE FLOOR ELEVATION (BFE) +1'-0" = FINISHED FLOOR ELEVATION (FFE) NGVD



02 ROOF PLAN
SCALE 1/4"=1'-0"

01 FLOOR PLAN
SCALE 1/4"=1'-0"

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VALHALLA RESORT
VALHALLA ISLAND,
CRAWL KEY
MONROE CO, FLORIDA

PROJECT NO. A10041
DRAWING TITLE

**TWO BEDROOM
(BUILDING TYPE "D")**

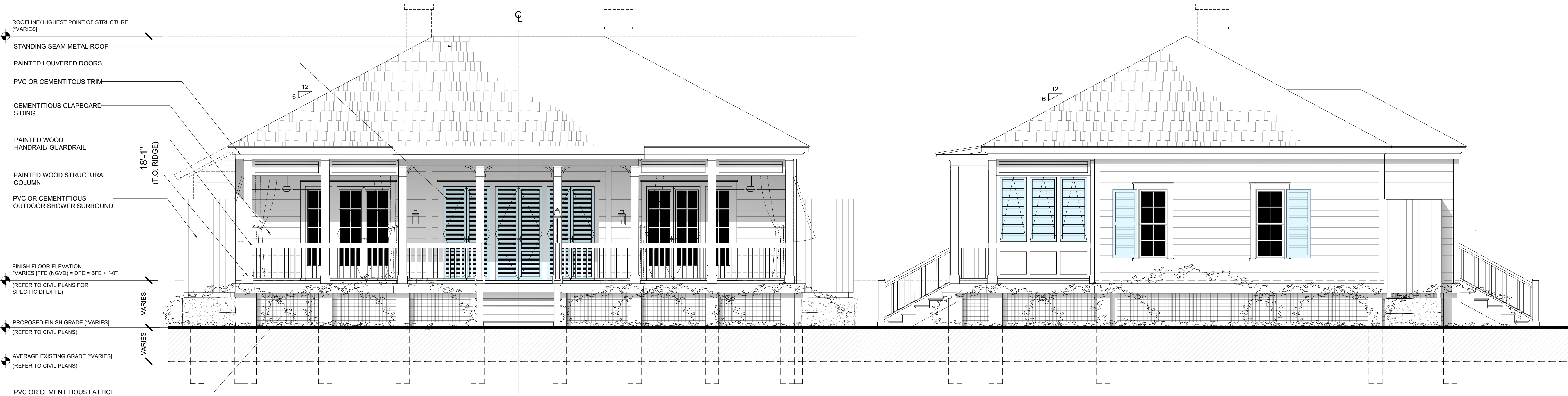
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SHEET NO.

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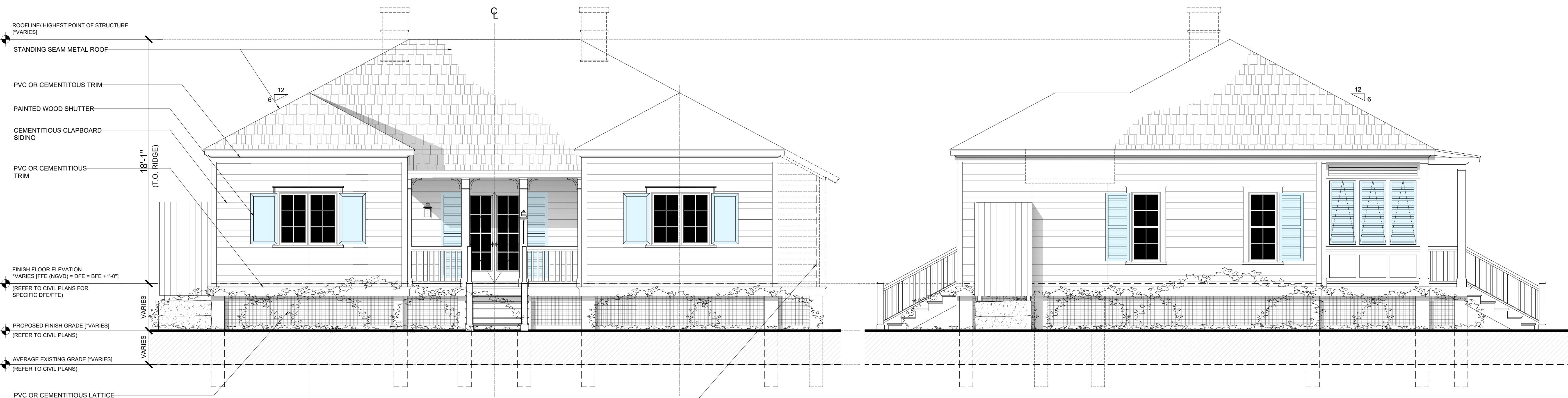
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04 BACK ELEVATION
SCALE 1/4"=1'-0"

03 SIDE ELEVATION
SCALE 1/4"=1'-0"



02 FRONT ELEVATION
SCALE 1/4"=1'-0"

01 SIDE ELEVATION
SCALE 1/4"=1'-0"

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PHONE: +1.469.730.0370
EMAIL: INFO@NMDARCH.COM



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PHONE: 415-439-2200

STRUCTURAL ENGINEER
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DENVER, CO 80211
PHONE: 303.623.9116

MEP ENGINEER
EXP ENGINEERING
201 ALHAMBRA CIRCLE, SUITE 800
CORAL GABLES, FL 33134
PHONE: 305-631-2208

CIVIL ENGINEER
CHEN MOORE & ASSOCIATES
2103 CORAL WAY, SUITE 401
MIAMI, FL 33145
PHONE: 786-497-1500

NOT FOR CONSTRUCTION

SITE PLAN SUBMISSION 03-26-2021

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VALHALLA RESORT
VALHALLA ISLAND,
CRAWL KEY
MONROE CO, FLORIDA

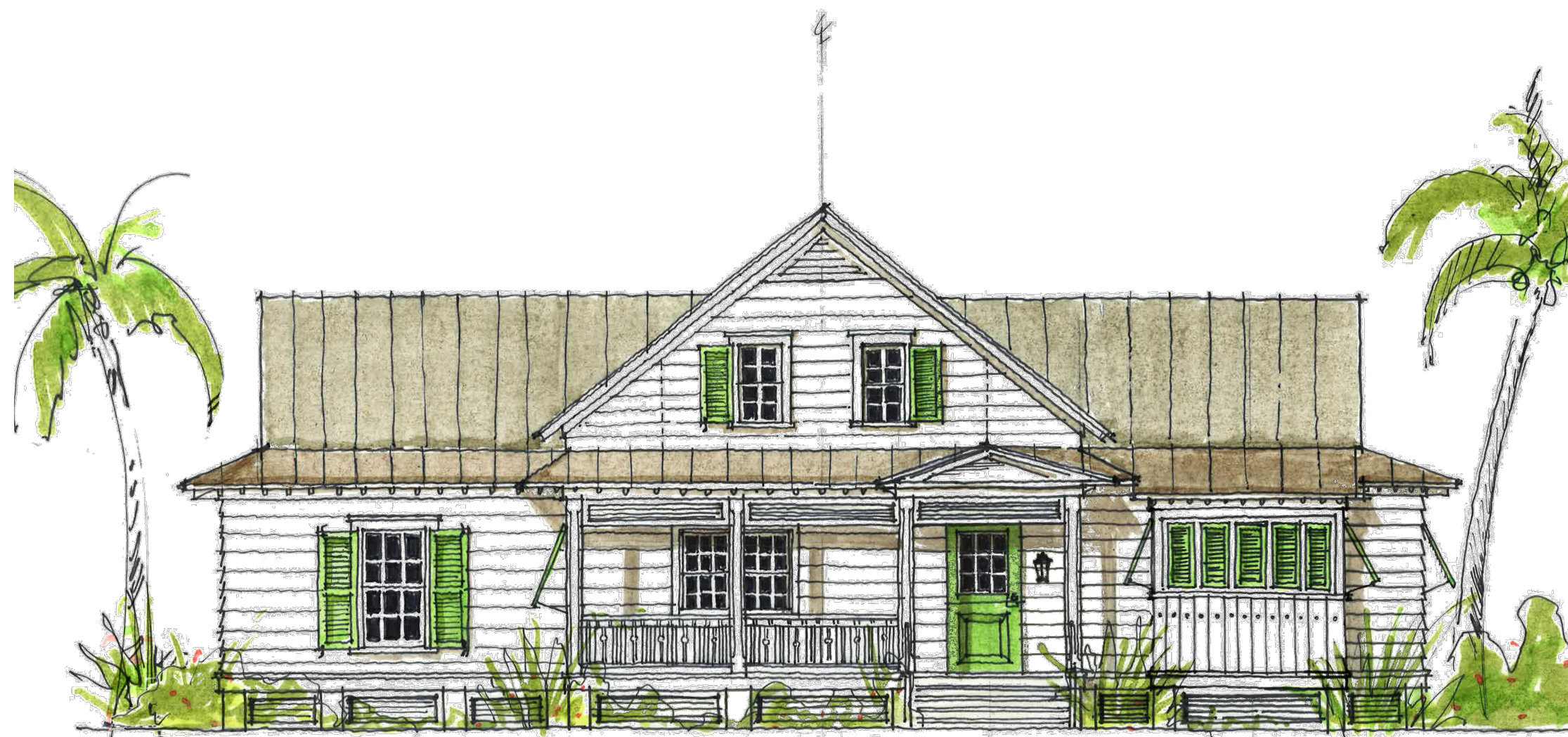
PROJECT NO. A10041
DRAWING TITLE

**TWO BEDROOM
(BUILDING TYPE "D")**

REVISIONS
NO. DESCRIPTION DATE

SHEET NO.

A_D2.01



04 CONCEPT MATERIAL STUDY
NOT TO SCALE

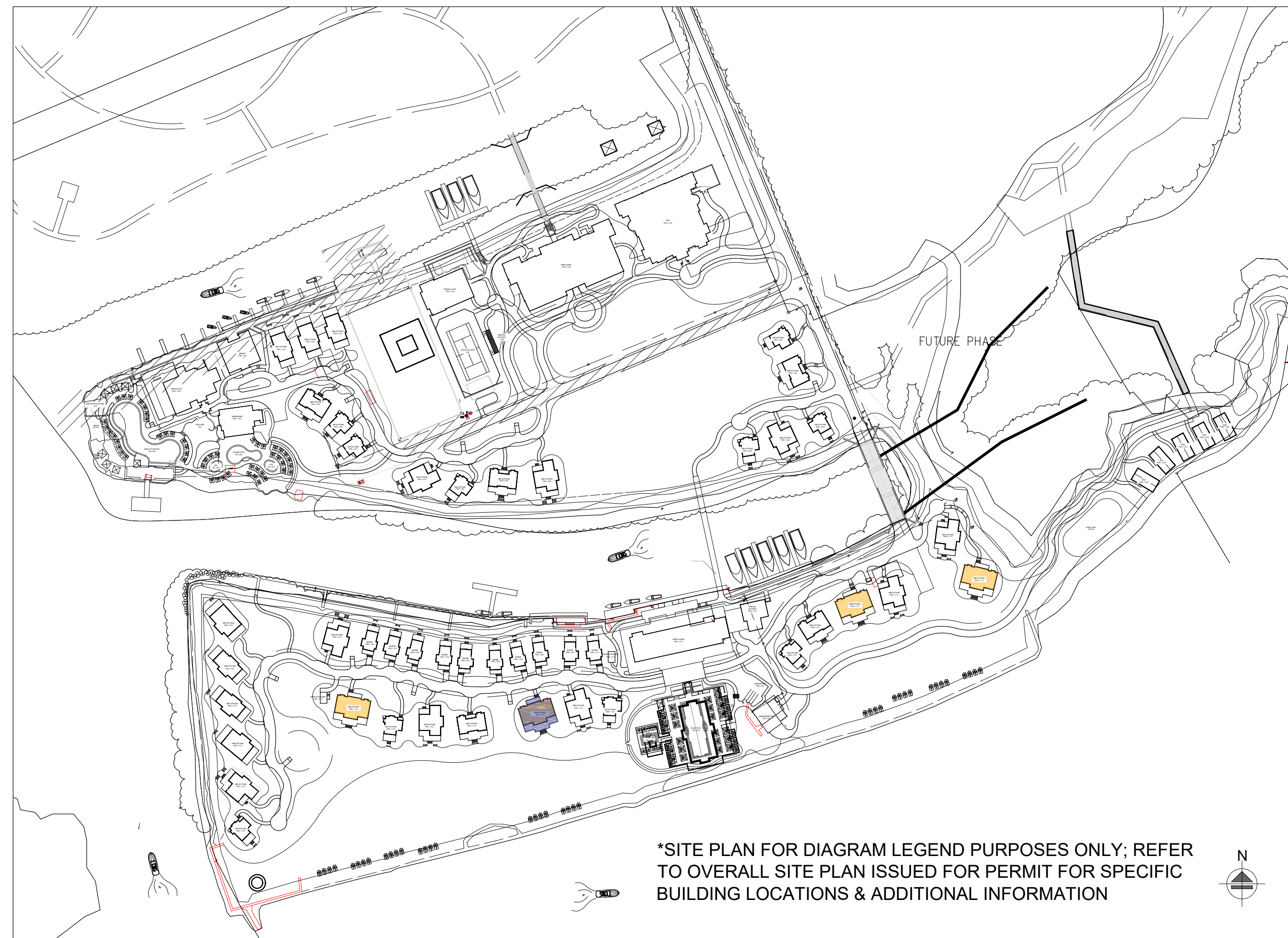


03 MASSING MODEL
NOT TO SCALE



02 RENDERING
NOT TO SCALE

LEGEND
■ BUILDING TYPE "E" LOCATION
■ HANDICAP ACCESSIBLE



01 SITE PLAN LEGEND
SCALE 1/128"=1'-0"

BUILDING AREA SUMMARY

- INTERIOR AREA: 1,790 SQFT
- EXTERIOR AREA: 718 SQFT
- TOTAL BUILDING FOOTPRINT: 3,152 SQFT

BUILDING TYPE "E" SUMMARY

- QUANTITY: 4 UNITS (1 HANDICAP ACCESSIBLE UNIT W/ MOBILITY FEATURES)
- NUMBER OF STORIES: 2 STORIES
- OVERALL BUILDING HEIGHT: VARIES* REFER TO NOTE, MAXIMUM HEIGHT = +33'-4" NGVD
- TYPE OF CONSTRUCTION: VB CONSTRUCTION, PROTECTED BY AN AUTOMATIC SPRINKLER SYSTEM IN ACCORDANCE WITH 2020 FBC SECTION 903.2.8

NOTE:

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 FOR FINISHED FLOOR & DESIGN FLOOD ELEVATION, SEE DRAWINGS BY CIVIL ENGINEER.

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SITE PLAN SUBMISSION 03-26-2021

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VALHALLA RESORT

VALHALLA ISLAND,
 CRAWL KEY
 MONROE CO, FLORIDA

PROJECT NO. A10041
 DRAWING TITLE

**THREE BEDROOM
 (BUILDING TYPE "E")**

REVISIONS		
NO.:	DESCRIPTION:	DATE:

SHEET NO.

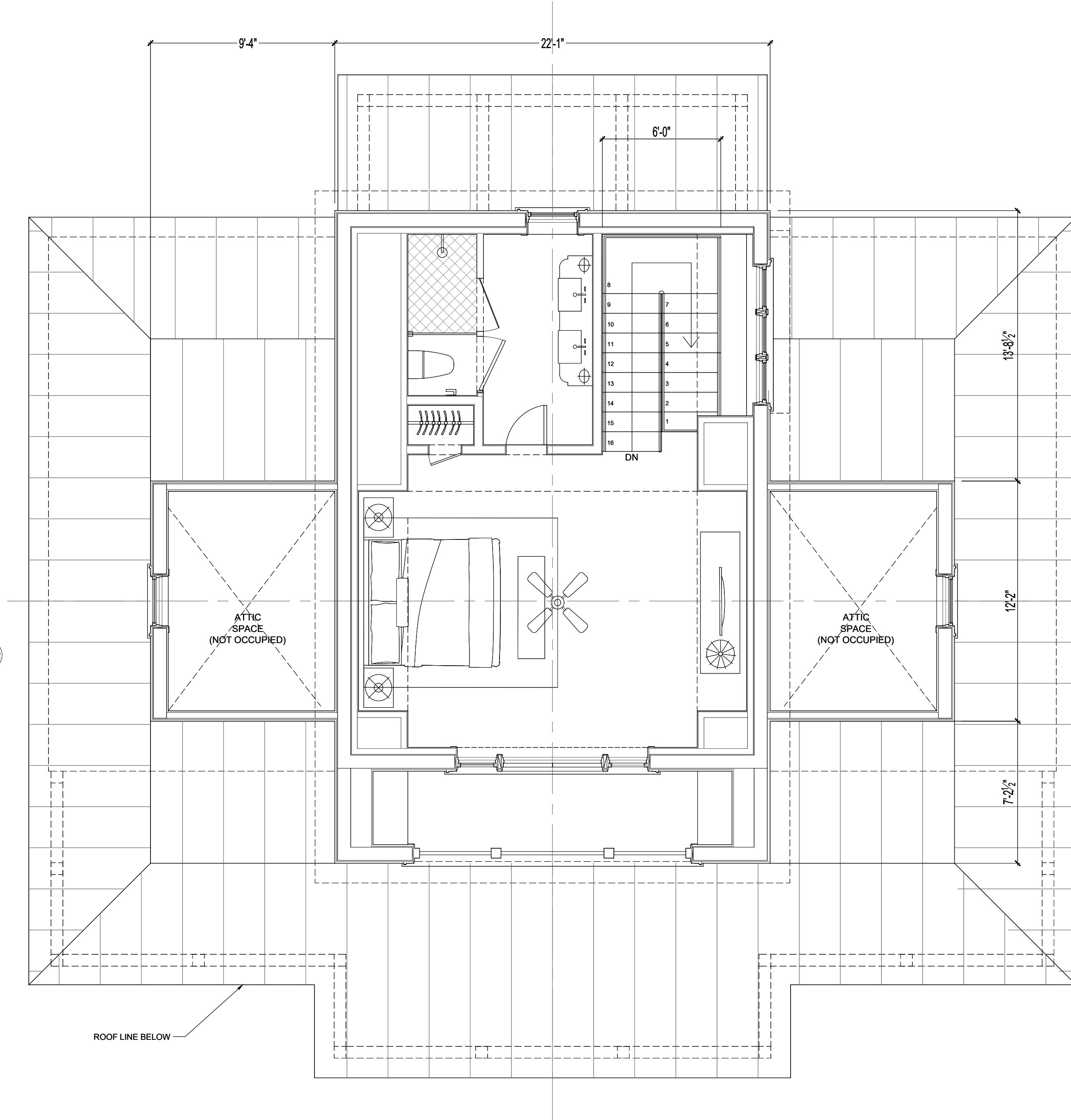
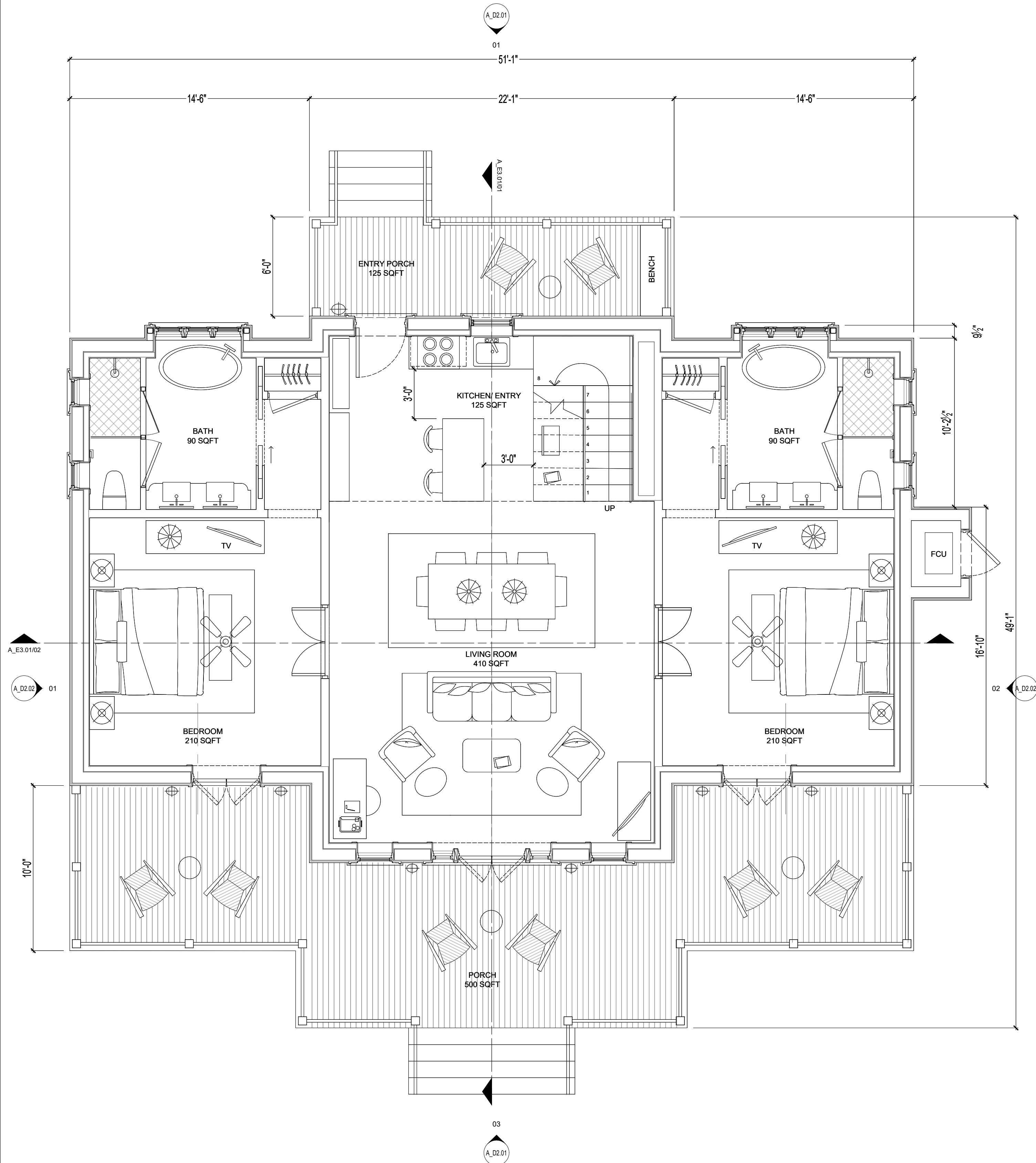
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PLAN NOTE:

*DESIGN FLOOD ELEVATION (DFE) NGVD = BASE FLOOR ELEVATION (BFE) +1'-0" = FINISHED FLOOR ELEVATION (FFE) NGVD



02 LOWER FLOOR PLAN
SCALE 1/4"=1'-0"

01 UPPER FLOOR PLAN
SCALE 1/4"=1'-0"

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VALHALLA RESORT
VALHALLA ISLAND,
CRAWL KEY
MONROE CO, FLORIDA

PROJECT NO. A10041
DRAWING TITLE

**THREE BEDROOM
(BUILDING TYPE "E2")**

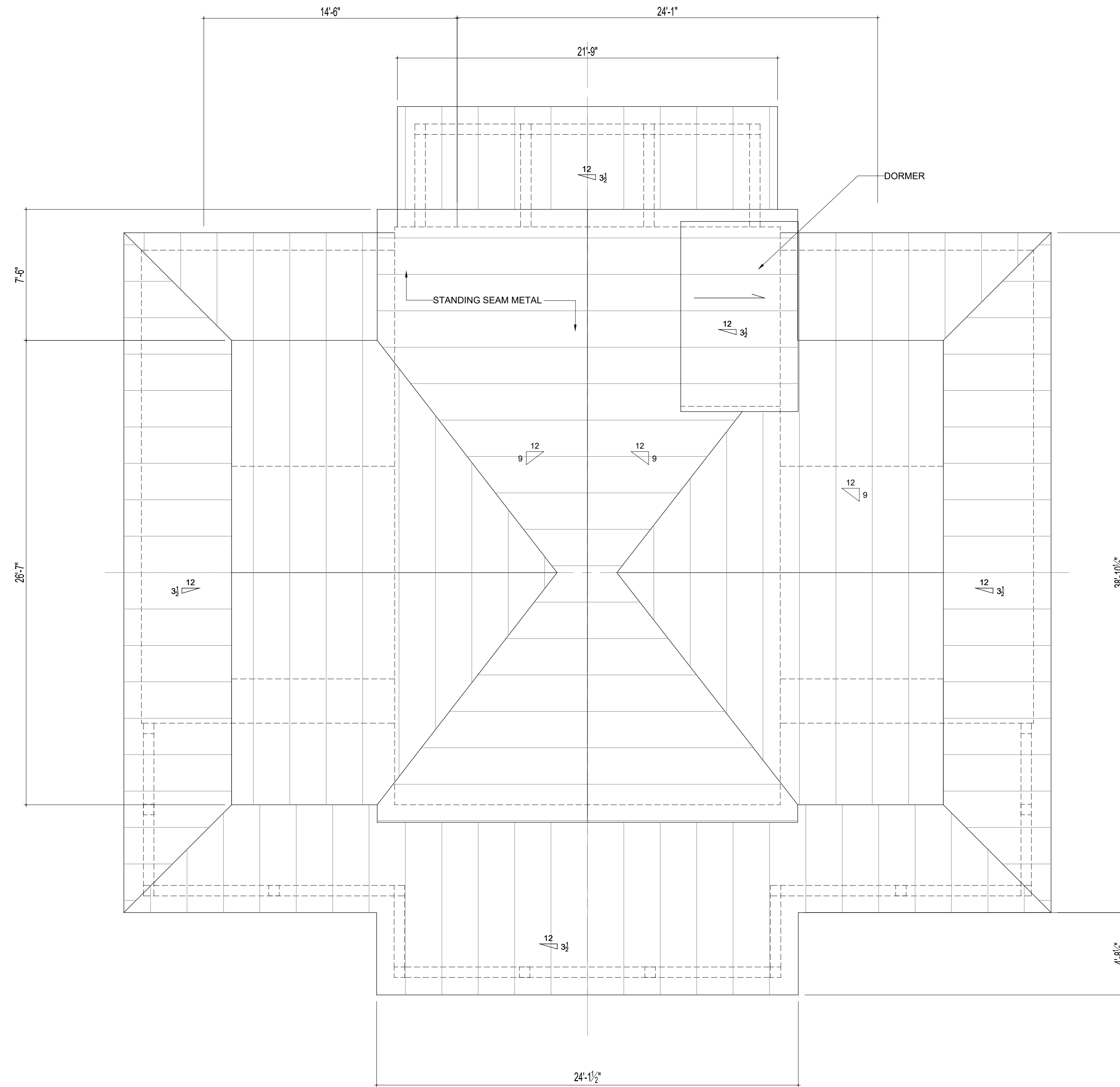
REVISIONS
NO.: DESCRIPTION: DATE:

SHEET NO.

A_E1.02

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01 ROOF PLAN
SCALE 1/4"=1'-0"

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VALHALLA RESORT
VALHALLA ISLAND,
CRAWL KEY
MONROE CO, FLORIDA

PROJECT NO. A10041
DRAWING TITLE

**THREE BEDROOM
(BUILDING TYPE "E2")**

REVISIONS
NO.: DESCRIPTION: DATE:

SHEET NO.

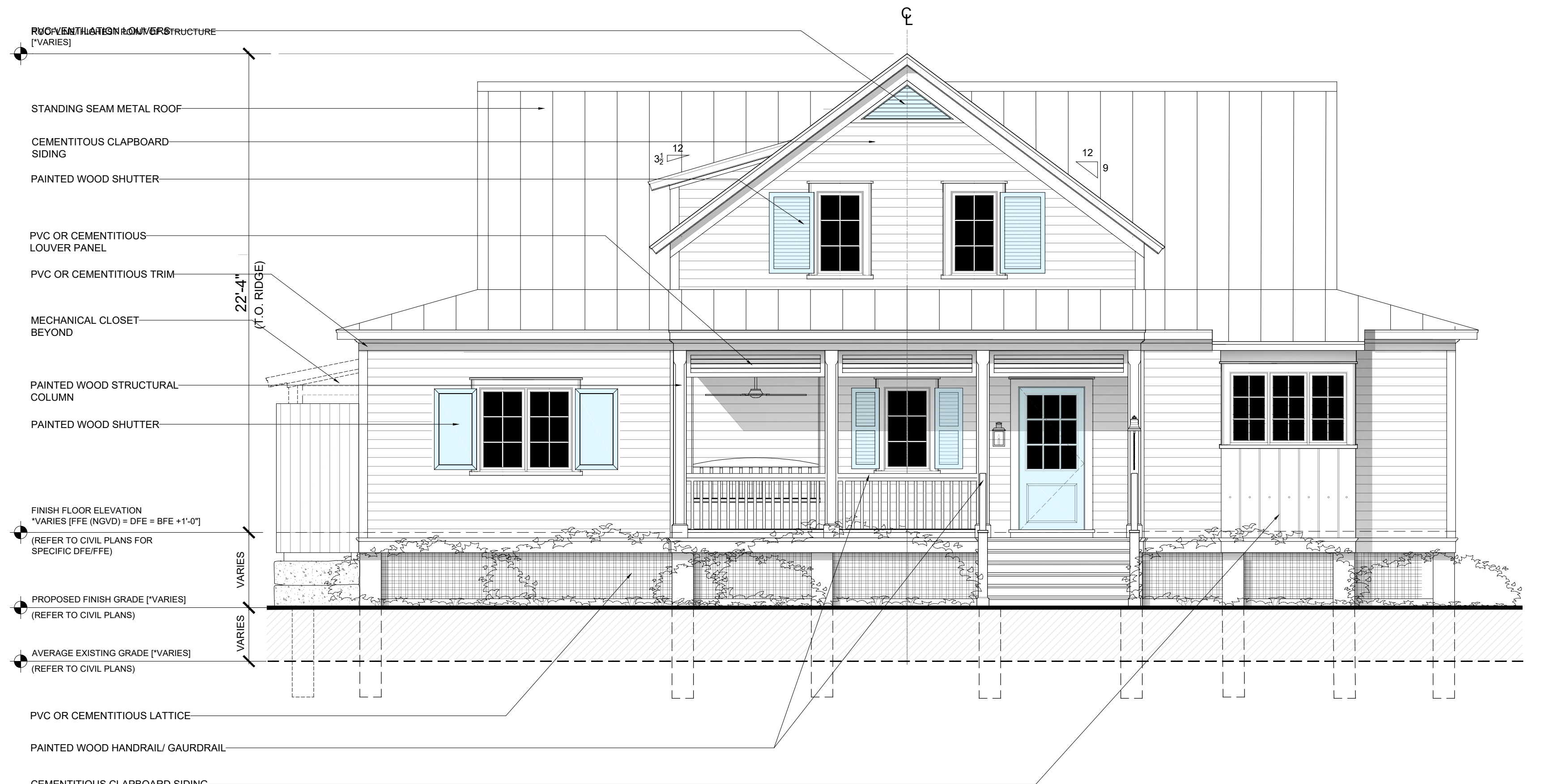
A_E1.03

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02 BACK ELEVATION
SCALE 1/4"=1'-0"



01 FRONT ELEVATION
SCALE 1/4"=1'-0"

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VALHALLA ISLAND,
CRAWL KEY
MONROE CO, FLORIDA

PROJECT NO. A10041
DRAWING TITLE

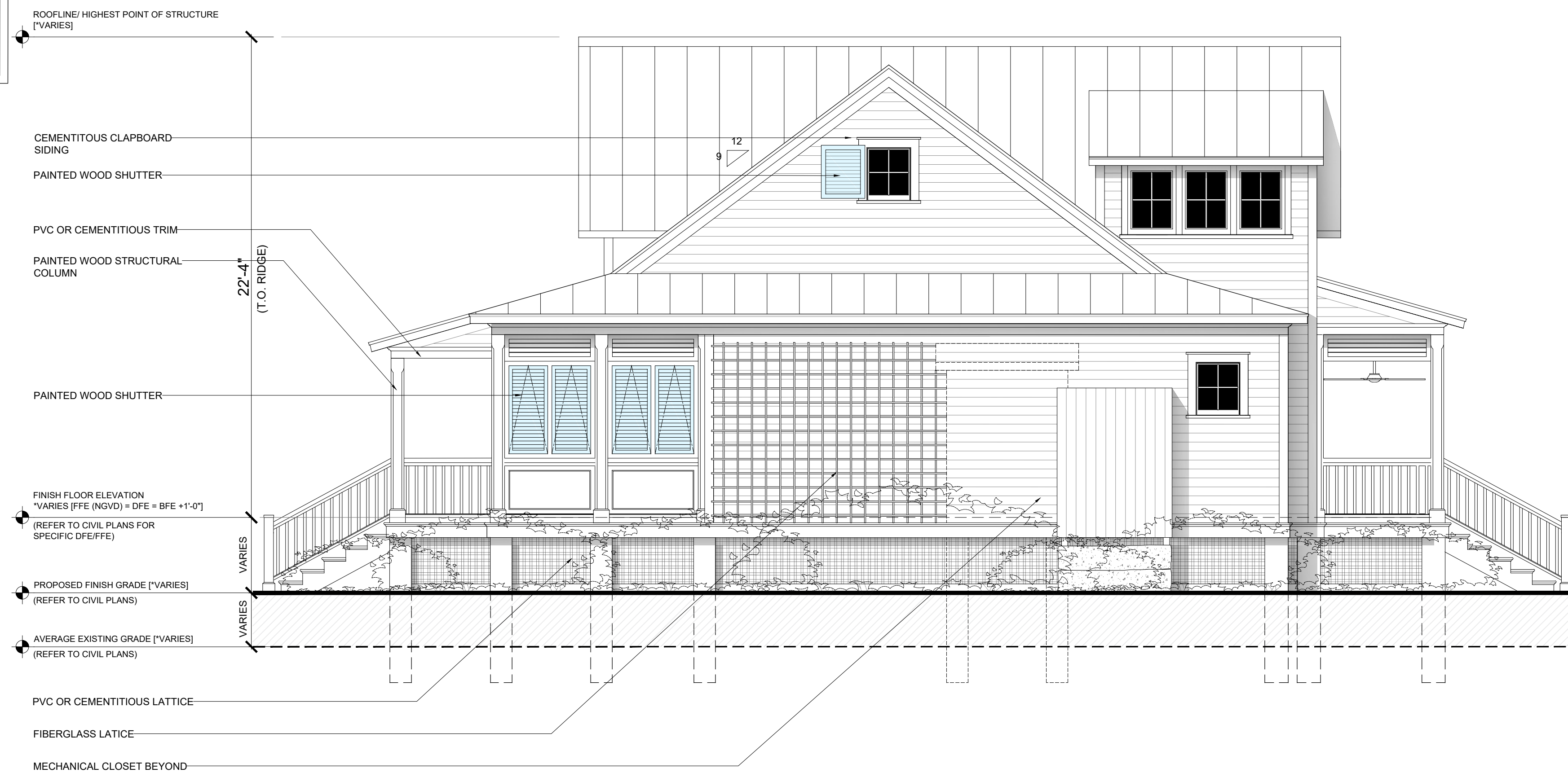
**THREE BEDROOM
(BUILDING TYPE "E")**

REVISIONS		
NO.:	DESCRIPTION:	DATE:

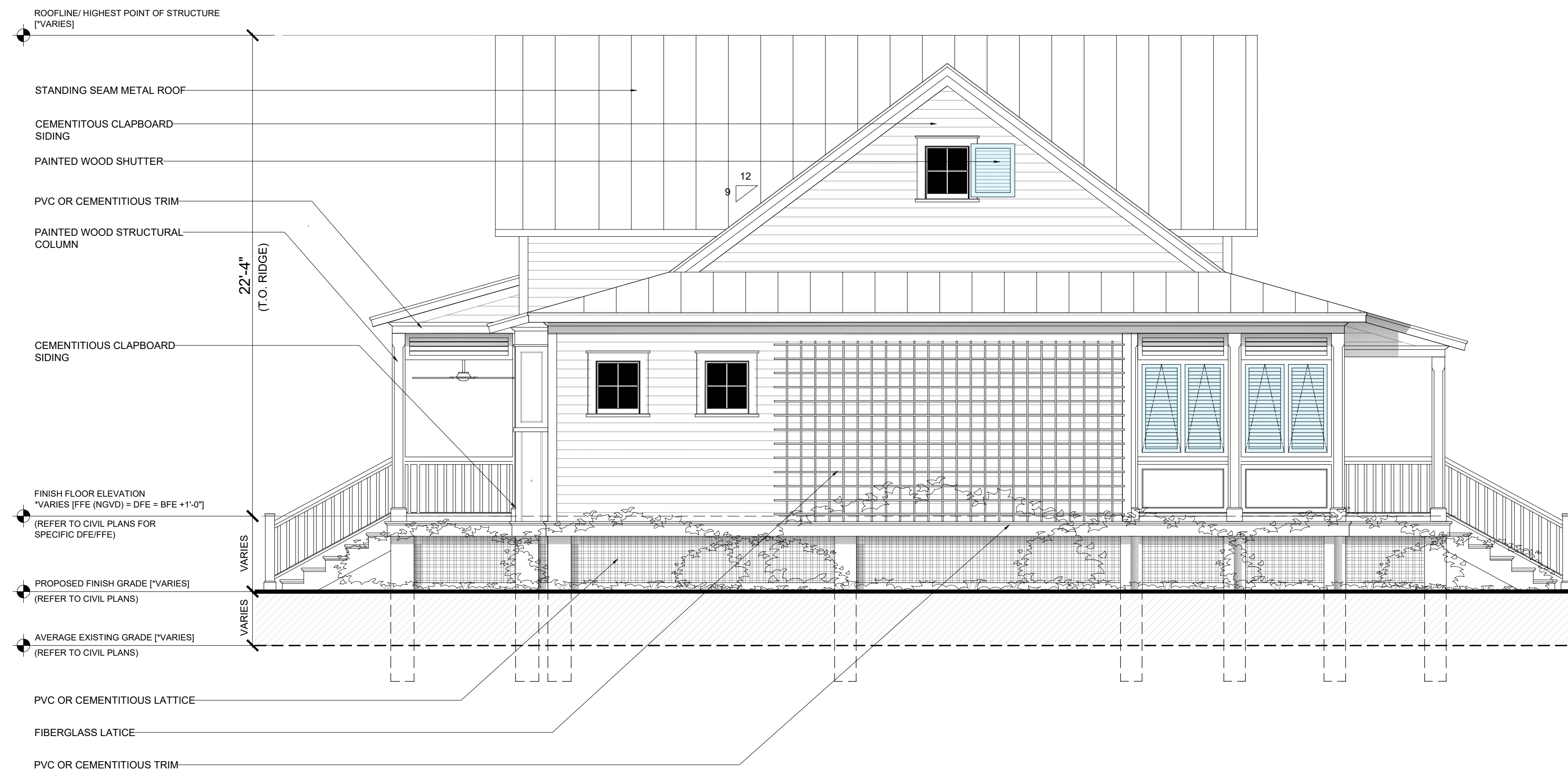
SHEET NO.
A_E2.01

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02 SIDE ELEVATION
SCALE 1/4"=1'-0"



01 SIDE ELEVATION
SCALE 1/4"=1'-0"

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VALHALLA RESORT
VALHALLA ISLAND,
CRAWL KEY
MONROE CO, FLORIDA

PROJECT NO. A10041
DRAWING TITLE

**THREE BEDROOM
(BUILDING TYPE "E")**

REVISIONS
NO.: DESCRIPTION: DATE:

SHEET NO.

A_E2.02



04 CONCEPT MATERIAL STUDY
NOT TO SCALE

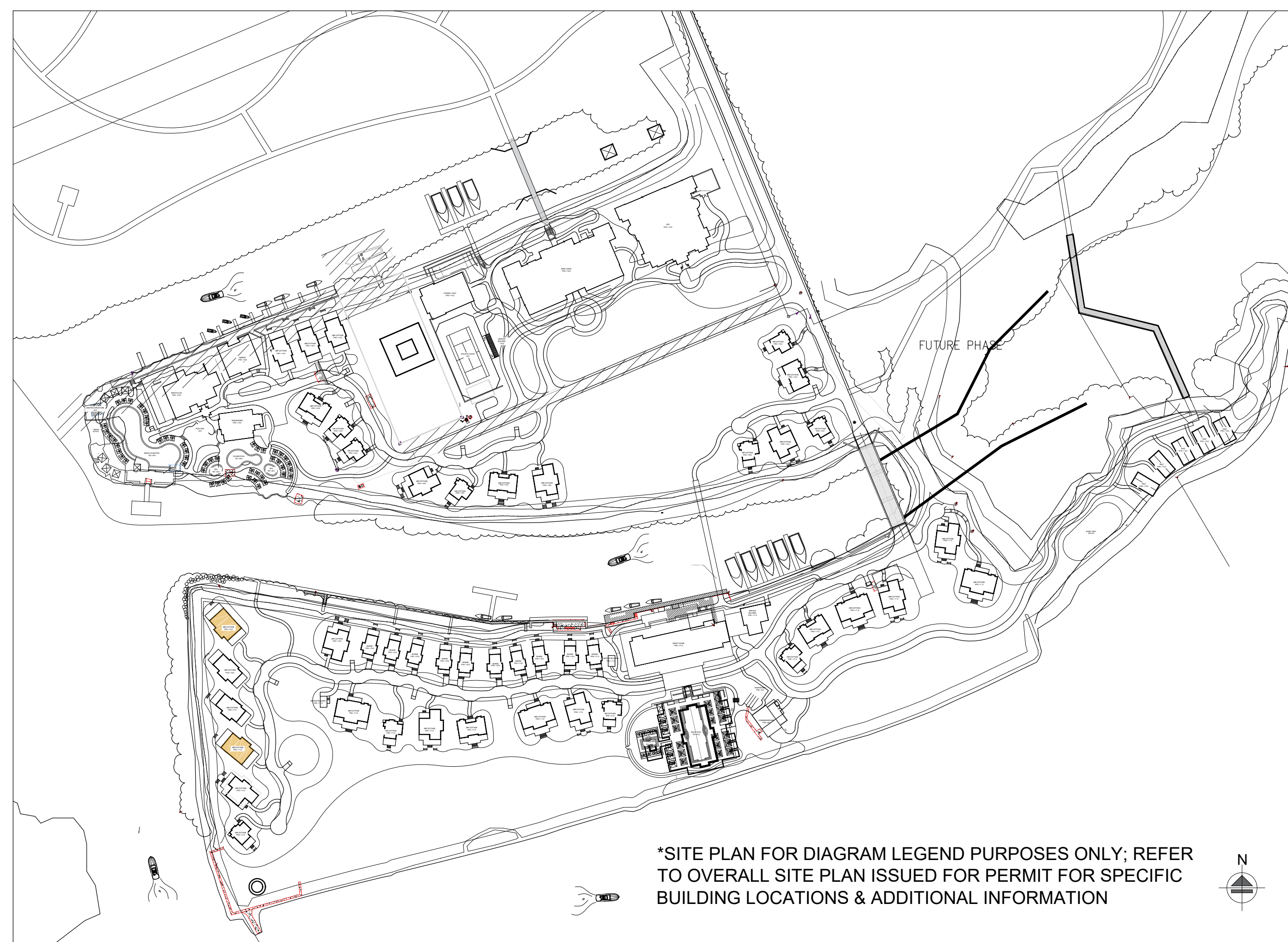


03 MASSING MODEL
NOT TO SCALE



02 RENDERING
NOT TO SCALE

LEGEND
 BUILDING TYPE "F" LOCATION



01 SITE PLAN LEGEND
SCALE 1/128"=1'-0"

BUILDING AREA SUMMARY

- INTERIOR AREA: 2,194 SQFT
- EXTERIOR AREA: 1,164 SQFT
- TOTAL BUILDING FOOTPRINT: 3,719 SQFT

BUILDING TYPE "F" SUMMARY

- QUANTITY: **2 UNITS**
- NUMBER OF STORIES: **2 STORIES**
- OVERALL BUILDING HEIGHT: **VARIES* REFER TO NOTE, MAXIMUM HEIGHT = +37'-9" NGVD**
- TYPE OF CONSTRUCTION: **VB CONSTRUCTION, PROTECTED WITH AN AUTOMATIC SPRINKLER SYSTEM IN ACCORDANCE WITH 2020 FBC SECTION 903.2.8**

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VALHALLA RESORT

VALHALLA ISLAND,
 CRAWL KEY
 MONROE CO, FLORIDA

PROJECT NO. A10041
 DRAWING TITLE

**FOUR BEDROOM
 (BUILDING TYPE "F")**

REVISIONS
 NO.: DESCRIPTION: DATE:

SHEET NO.

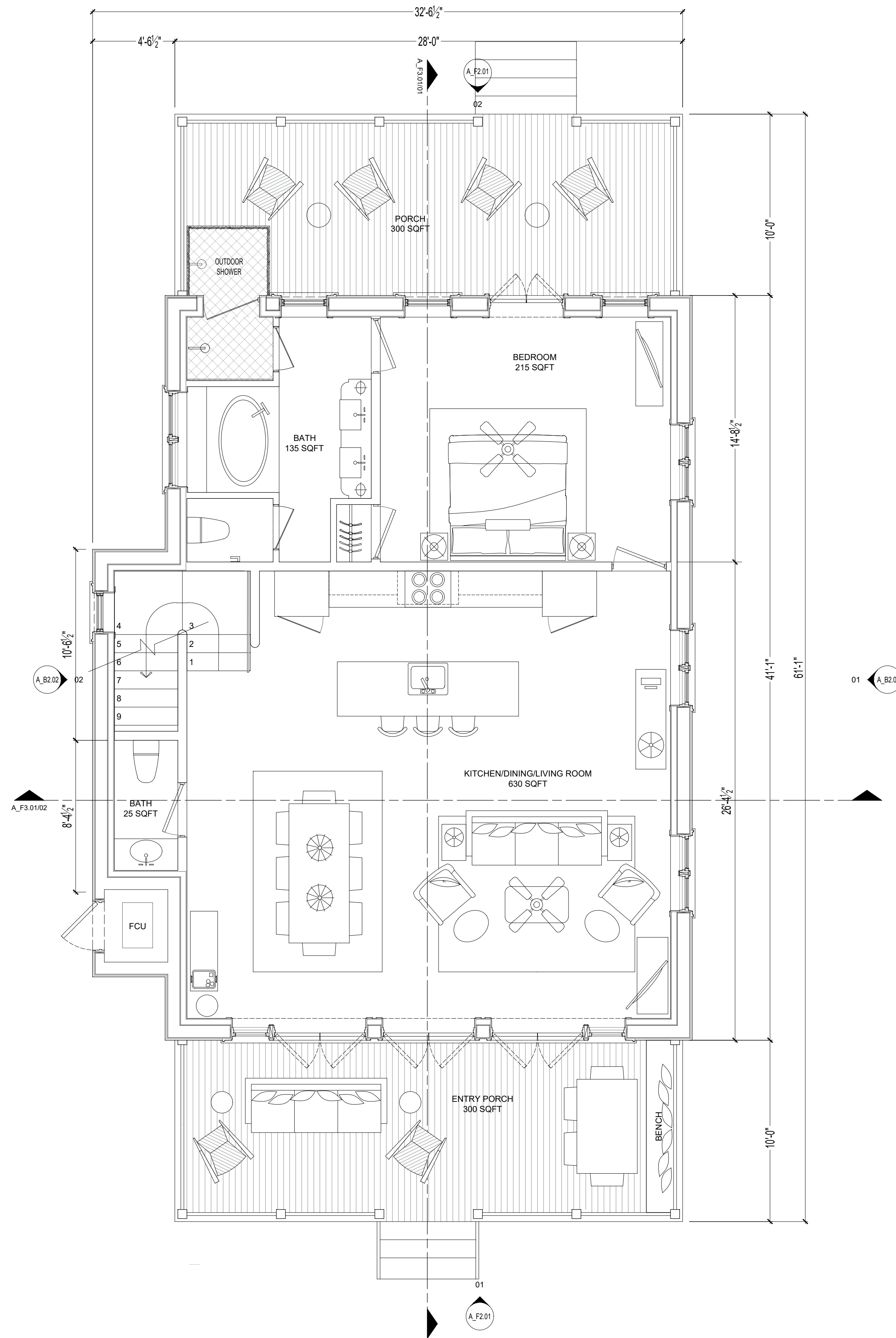
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NOTE:

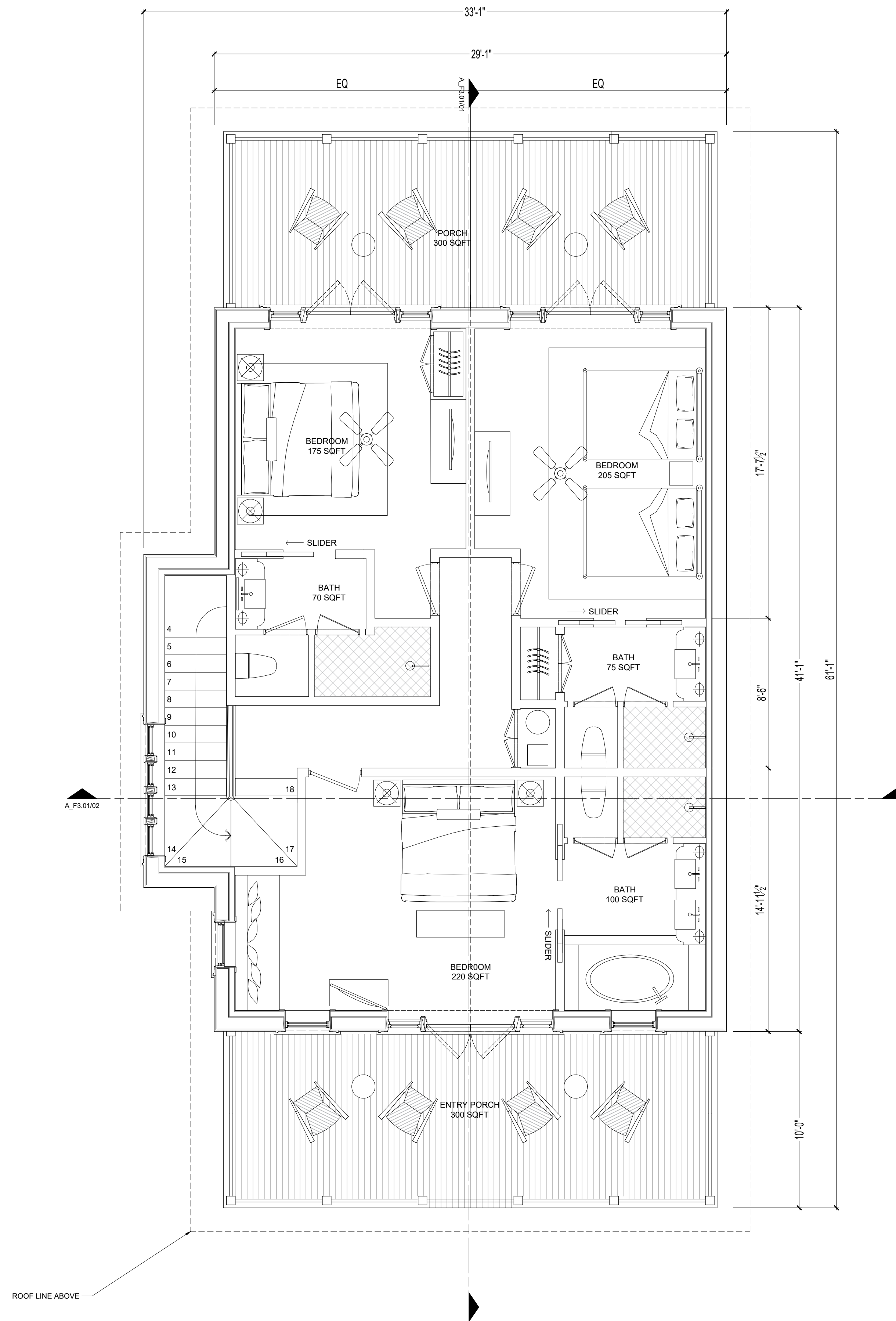
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PLAN NOTE:

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02 LOWER FLOOR PLAN
SCALE 1/4"=1'-0"



01 UPPER FLOOR PLAN
SCALE 1/4"=1'-0"

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SAN FRANCISCO, CA 94111
PHONE: 415-439-2200

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DENVER, CO 80211
PHONE: 303.623.9116

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EXP ENGINEERING
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PHONE: 305-631-2208

CIVIL ENGINEER
CHEN MOORE & ASSOCIATES
2103 CORAL WAY, SUITE 401
MIAMI, FL 33145
PHONE: 786-497-1500

SITE PLAN SUBMISSION 03-26-2021

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VALHALLA RESORT
VALHALLA ISLAND,
CRAWL KEY
MONROE CO, FLORIDA

PROJECT NO. A10041
DRAWING TITLE

**FOUR BEDROOM
(BUILDING TYPE "F")**

REVISIONS

NO.:	DESCRIPTION:	DATE:

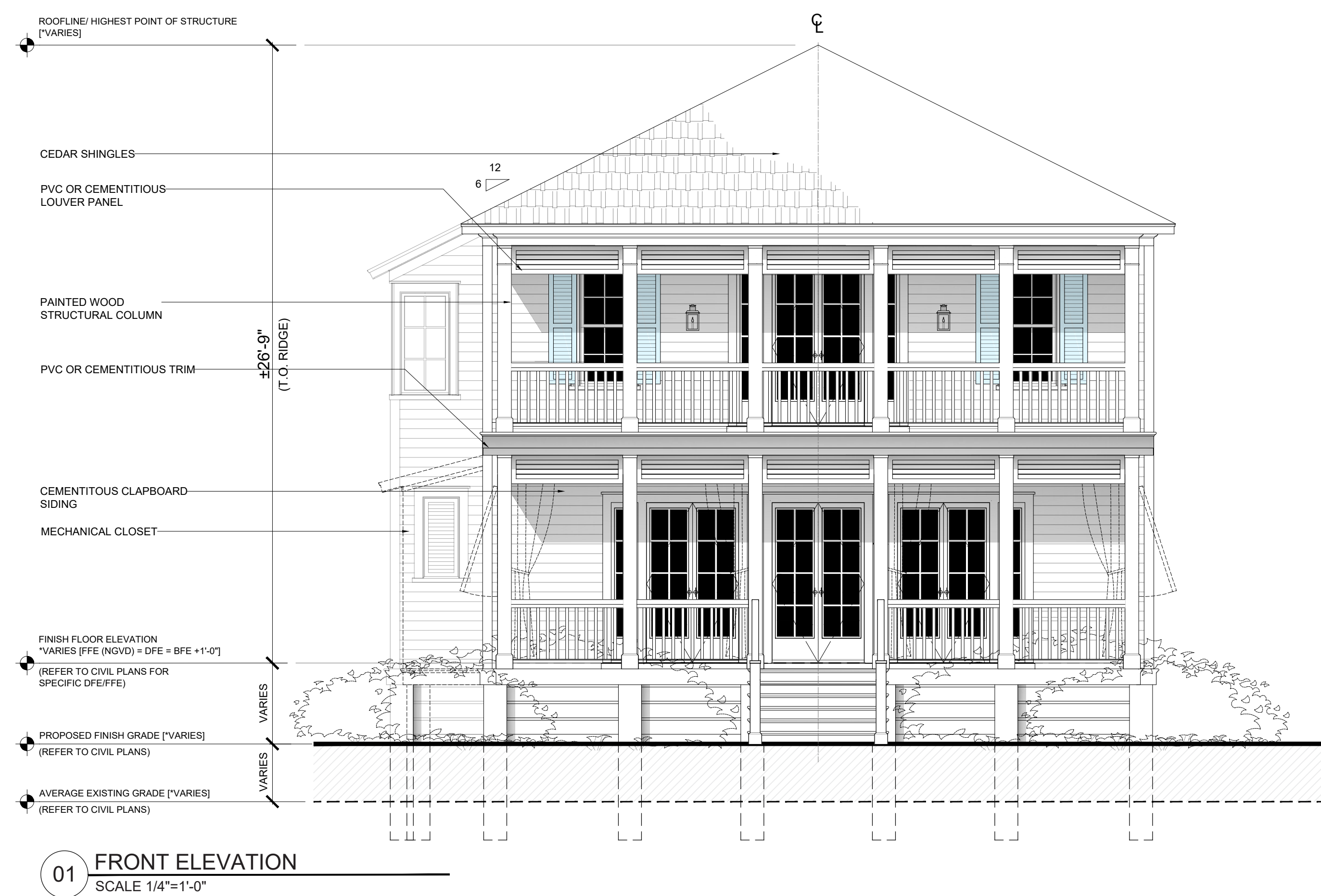
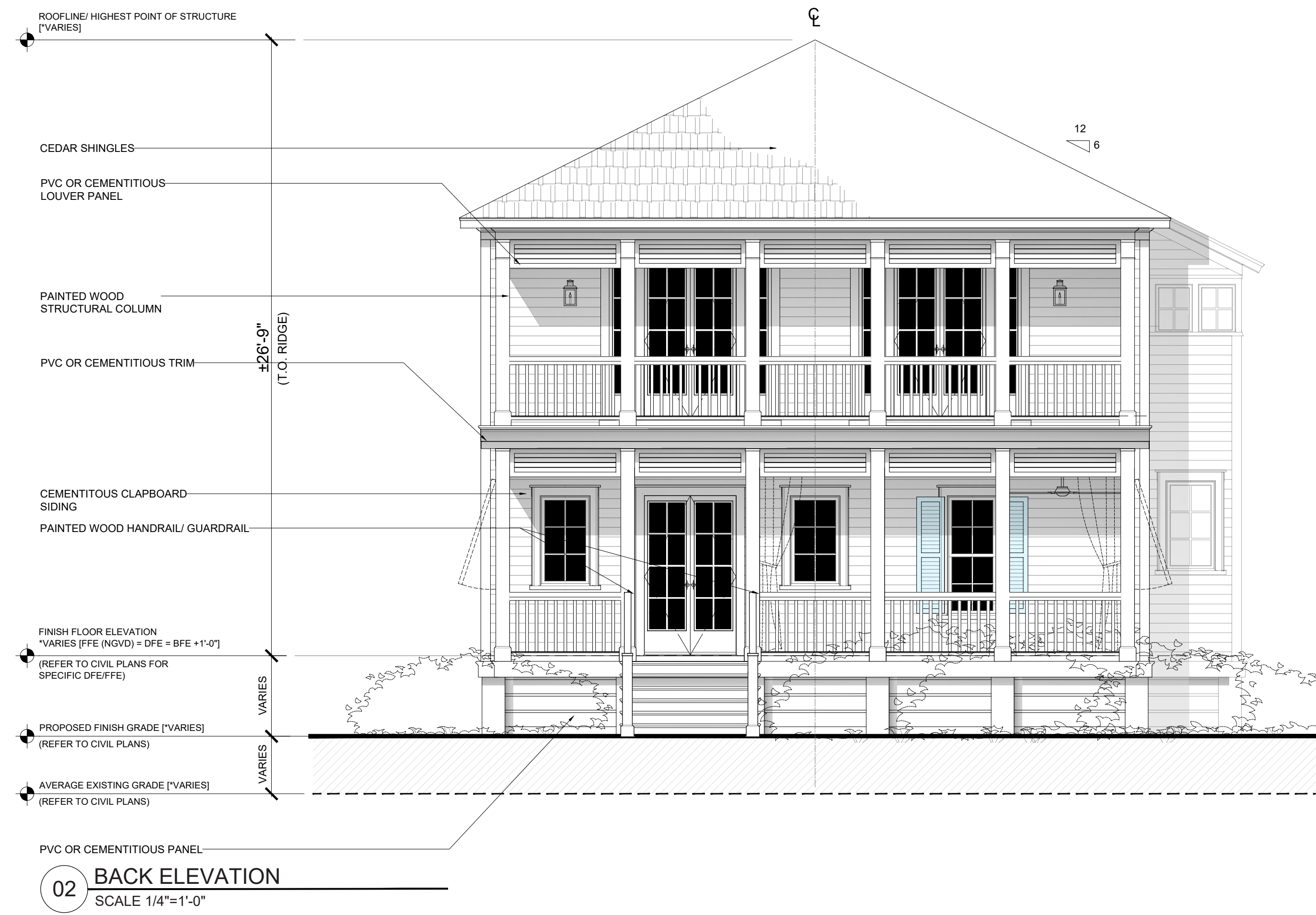
SHEET NO.

A_F1.02

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NOTE:

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FOR FINISHED FLOOR & DESIGN FLOOD ELEVATION, SEE DRAWINGS BY CIVIL ENGINEER.



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CIVIL ENGINEER
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SITE PLAN SUBMISSION 03-26-2021

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VALHALLA RESORT
VALHALLA ISLAND,
CRAWL KEY
MONROE CO, FLORIDA

PROJECT NO. A10041
DRAWING TITLE

**FOUR BEDROOM
(BUILDING TYPE "F")**

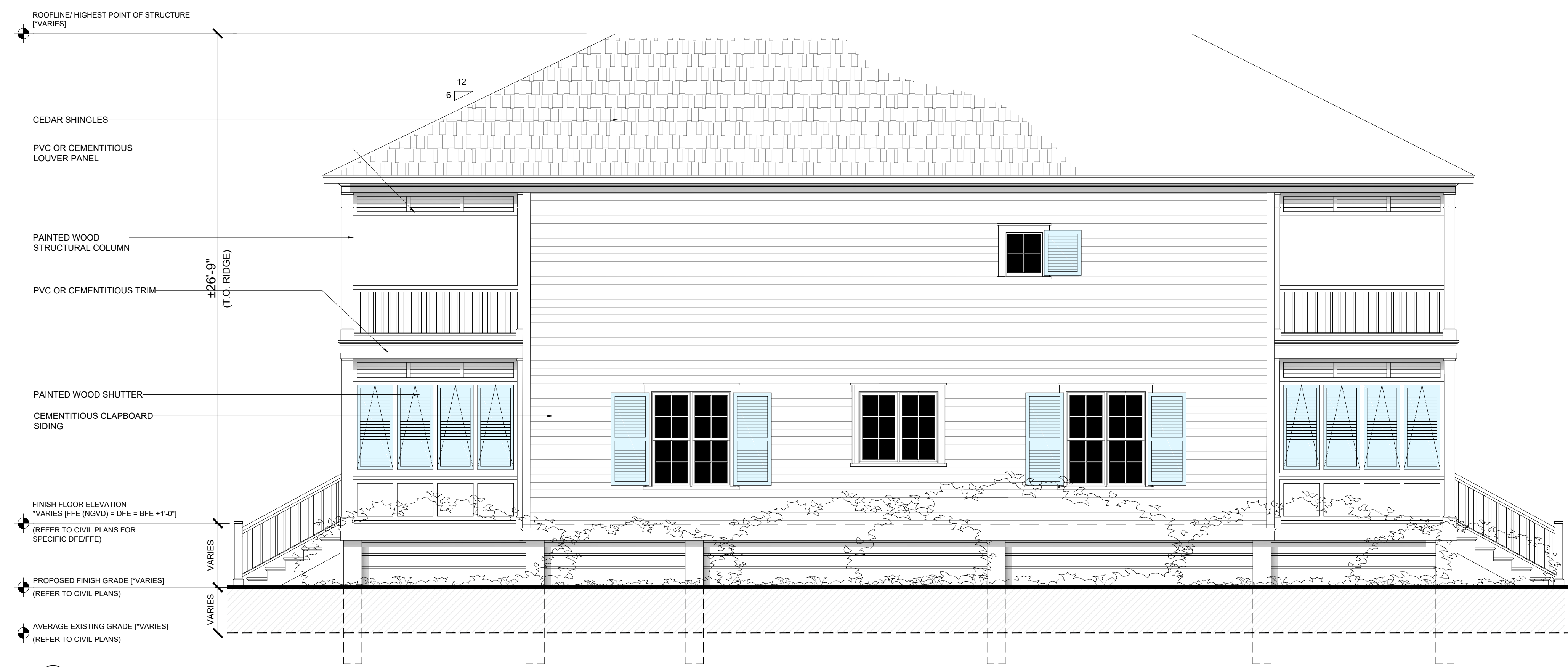
REVISIONS		
NO.:	DESCRIPTION:	DATE:

SHEET NO.
A_F2.01

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02 SIDE ELEVATION
 SCALE 1/4"=1'-0"



01 SIDE ELEVATION
 SCALE 1/4"=1'-0"

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SITE PLAN SUBMISSION 03-26-2021

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VALHALLA RESORT
 VALHALLA ISLAND,
 CRAWL KEY,
 MONROE CO, FLORIDA

PROJECT NO. A10041
 DRAWING TITLE

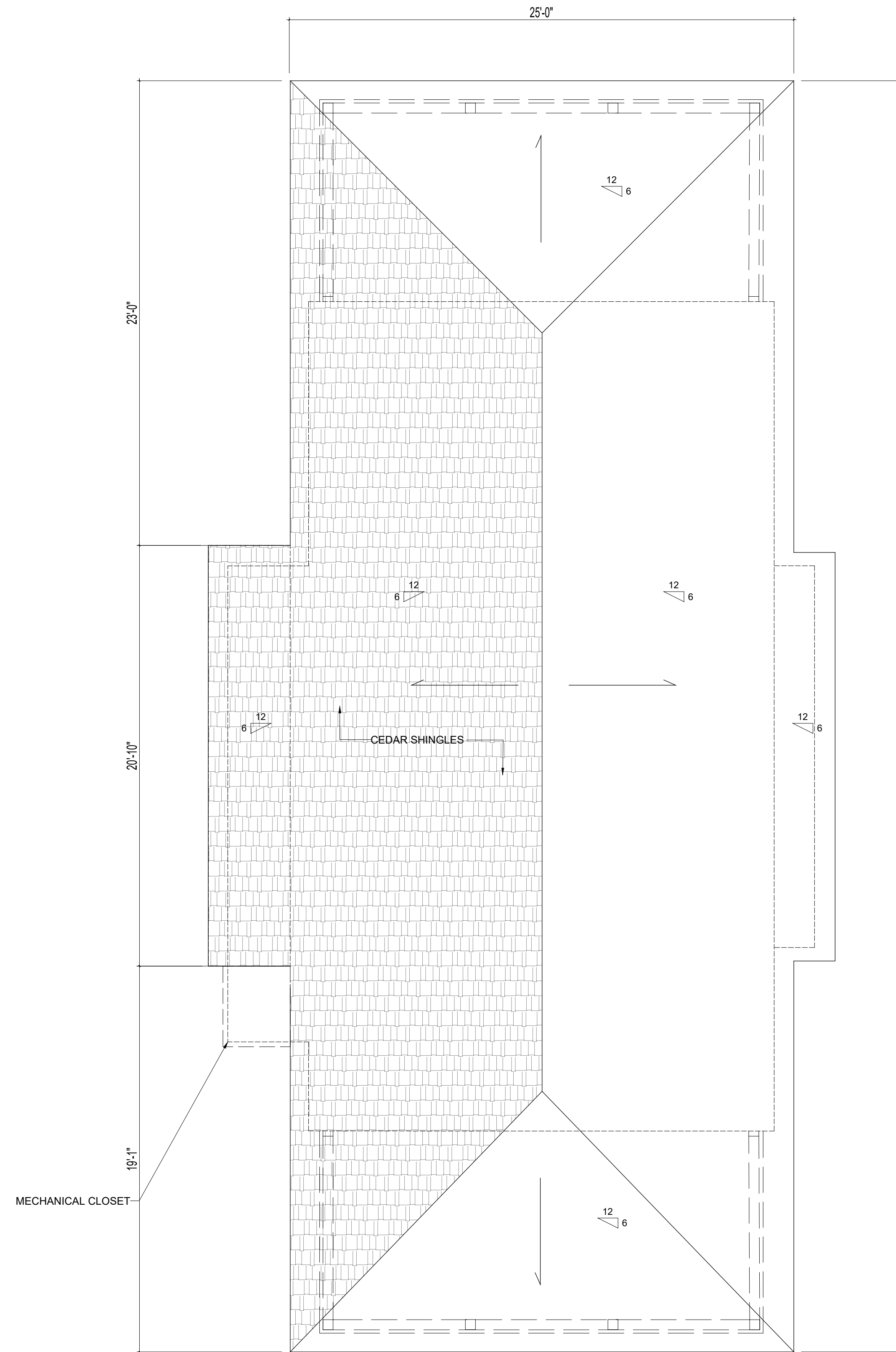
**FOUR BEDROOM
 (BUILDING TYPE "F")**

REVISIONS		
NO.:	DESCRIPTION:	DATE:

SHEET NO.
A_F2.02

NOTE:

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01 ROOF PLAN
SCALE 1/4"=1'-0"

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SITE PLAN SUBMISSION 03-26-2021

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VALHALLA RESORT
VALHALLA ISLAND,
CRAWL KEY
MONROE CO, FLORIDA

PROJECT NO. A10041
DRAWING TITLE

**FOUR BEDROOM
(BUILDING TYPE "G")**

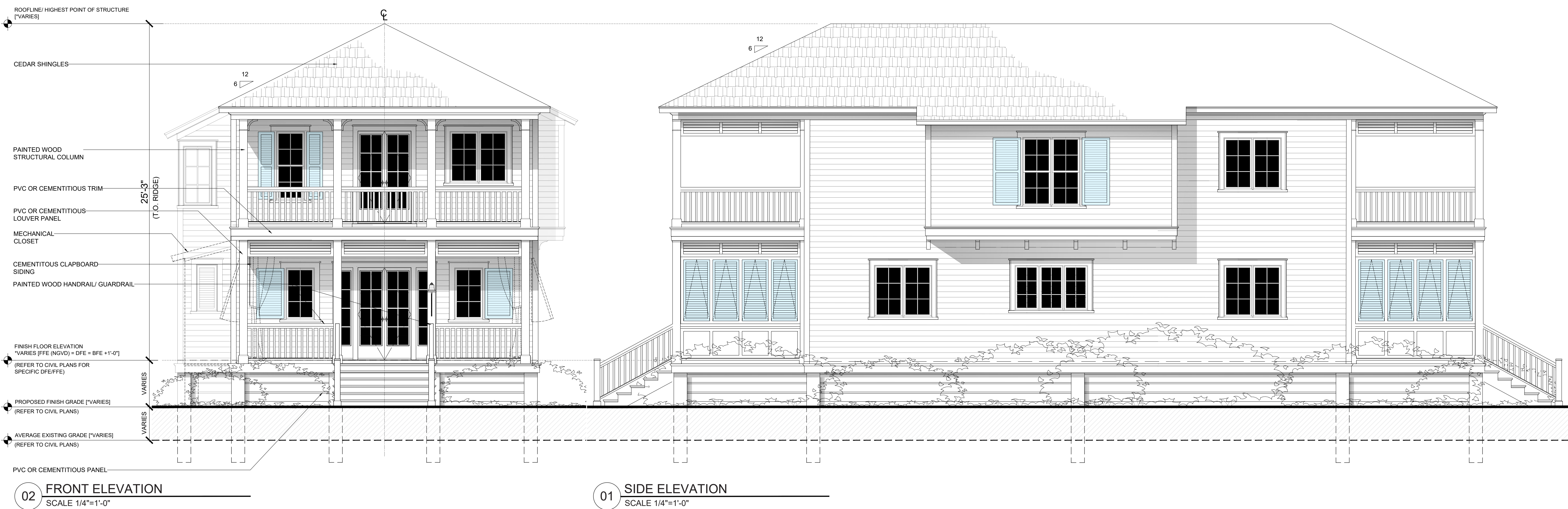
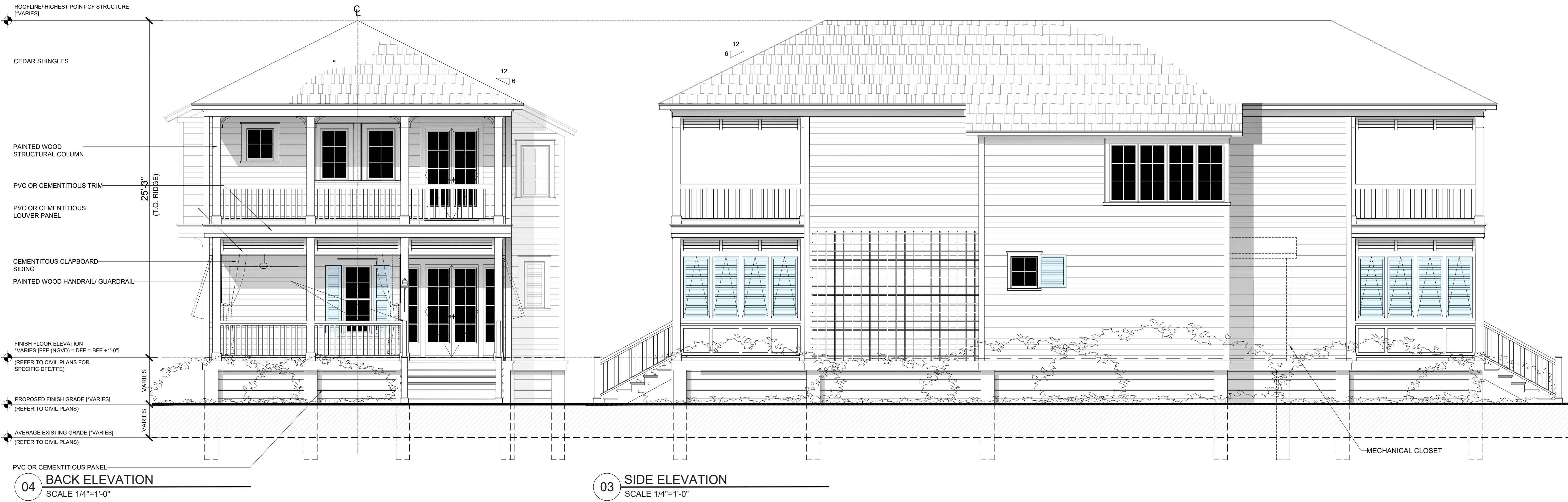
REVISIONS
NO.: DESCRIPTION: DATE:

SHEET NO.

A_G1.03

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SITE PLAN SUBMISSION 03-26-2021

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VALHALLA RESORT
VALHALLA ISLAND,
CRAWL KEY
MONROE CO, FLORIDA

PROJECT NO. A10041
DRAWING TITLE

**FOUR BEDROOM
(BUILDING TYPE "G")**

REVISIONS
NO.: DESCRIPTION: DATE:

SHEET NO.

A_G2.01

NOT FOR CONSTRUCTION

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 FLORIDIAN HOLDINGS, LLC:

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VALHALLA RESORT

VALHALLA ISLAND,
 CRAWL KEY
 MONROE CO, FLORIDA

PROJECT NO. A10041

DRAWING TITLE

**SPA
 (BUILDING TYPE "H")**

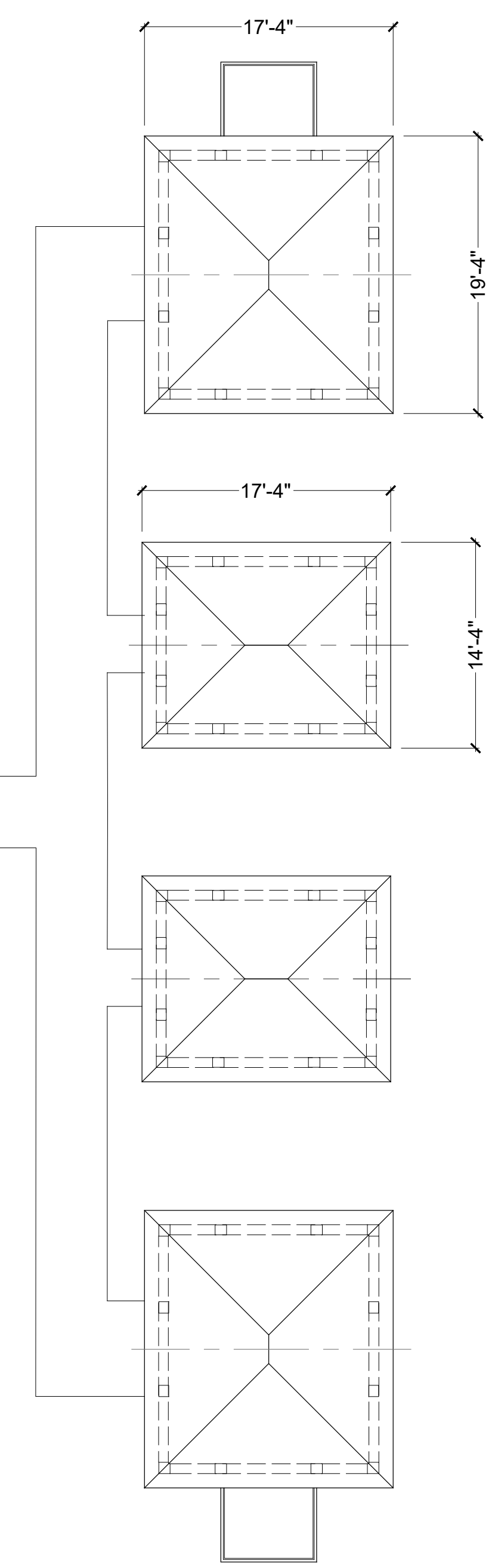
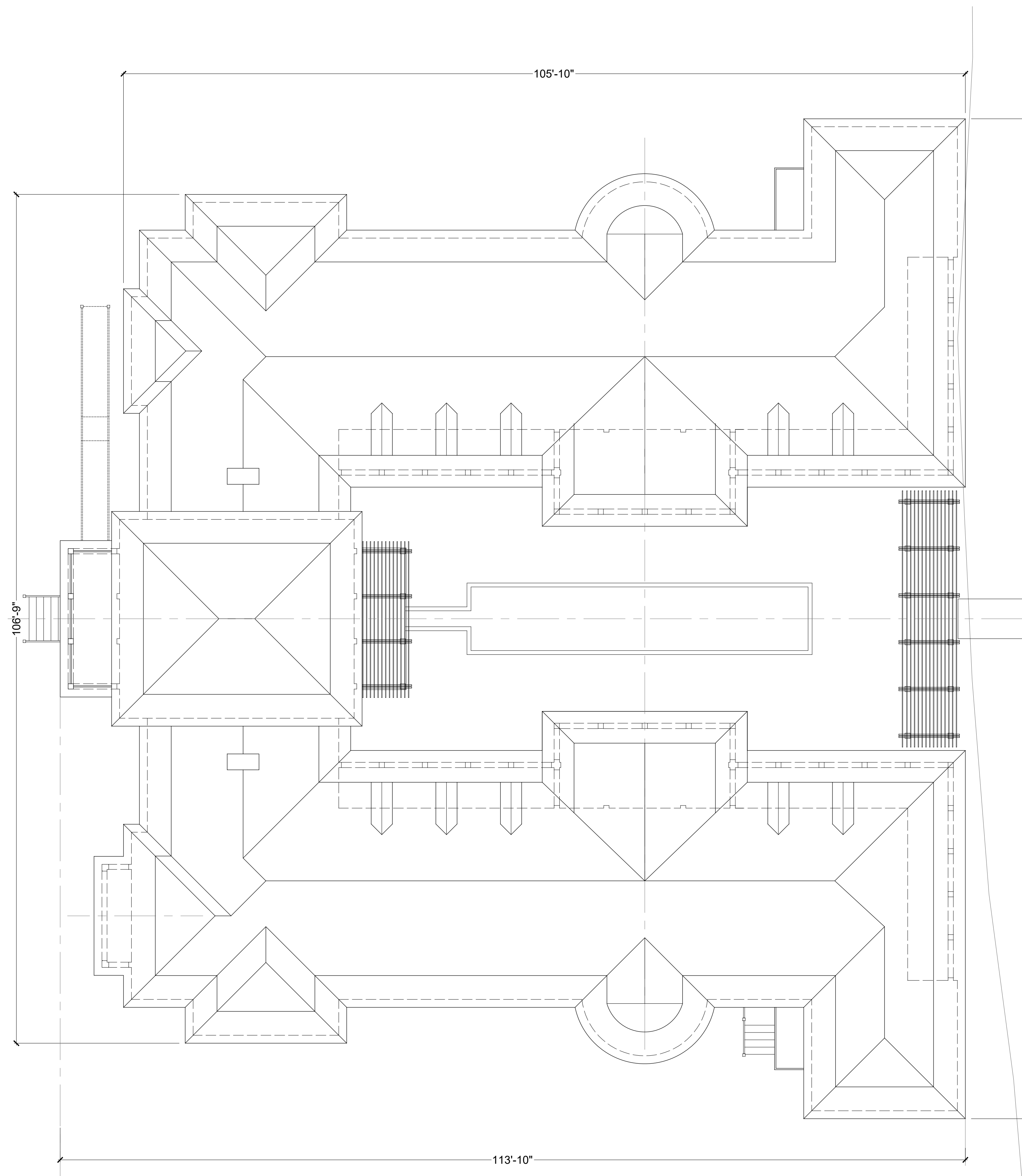
REVISIONS

NO.:	DESCRIPTION:	DATE:

SHEET NO.

A_H1.03

SPA ROOF PLAN



01 ROOF PLAN
 SCALE 1/8"=1'-0"

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02 BACK ELEVATION
SCALE 3/16"=1'-0"



01 FRONT ELEVATION
SCALE 3/16"=1'-0"

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VALHALLA RESORT
VALHALLA ISLAND,
CRAWL KEY
MONROE CO, FLORIDA

PROJECT NO. A10041
DRAWING TITLE

SPA
(BUILDING TYPE "H")

REVISIONS		
NO.:	DESCRIPTION:	DATE:

SHEET NO.

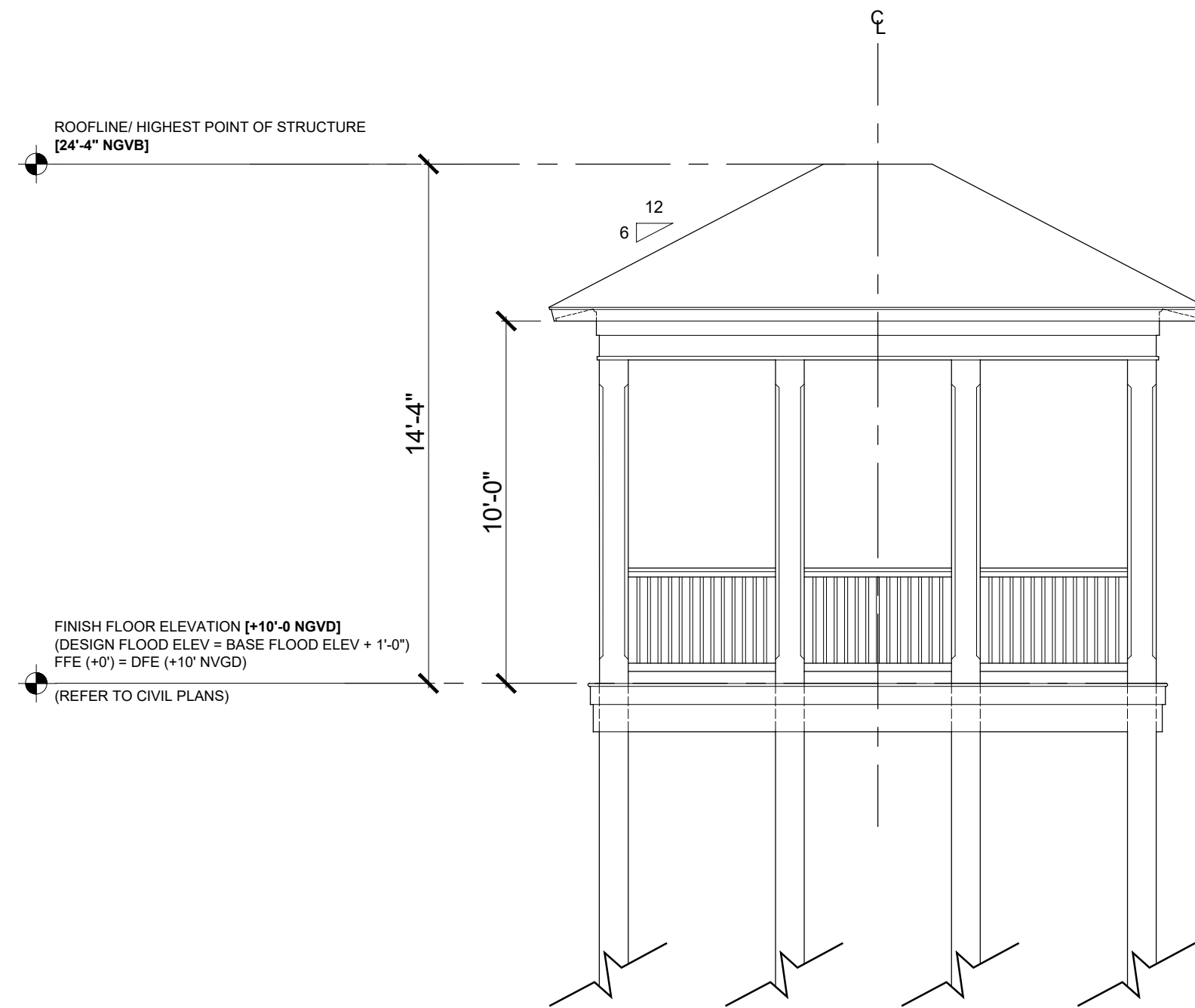
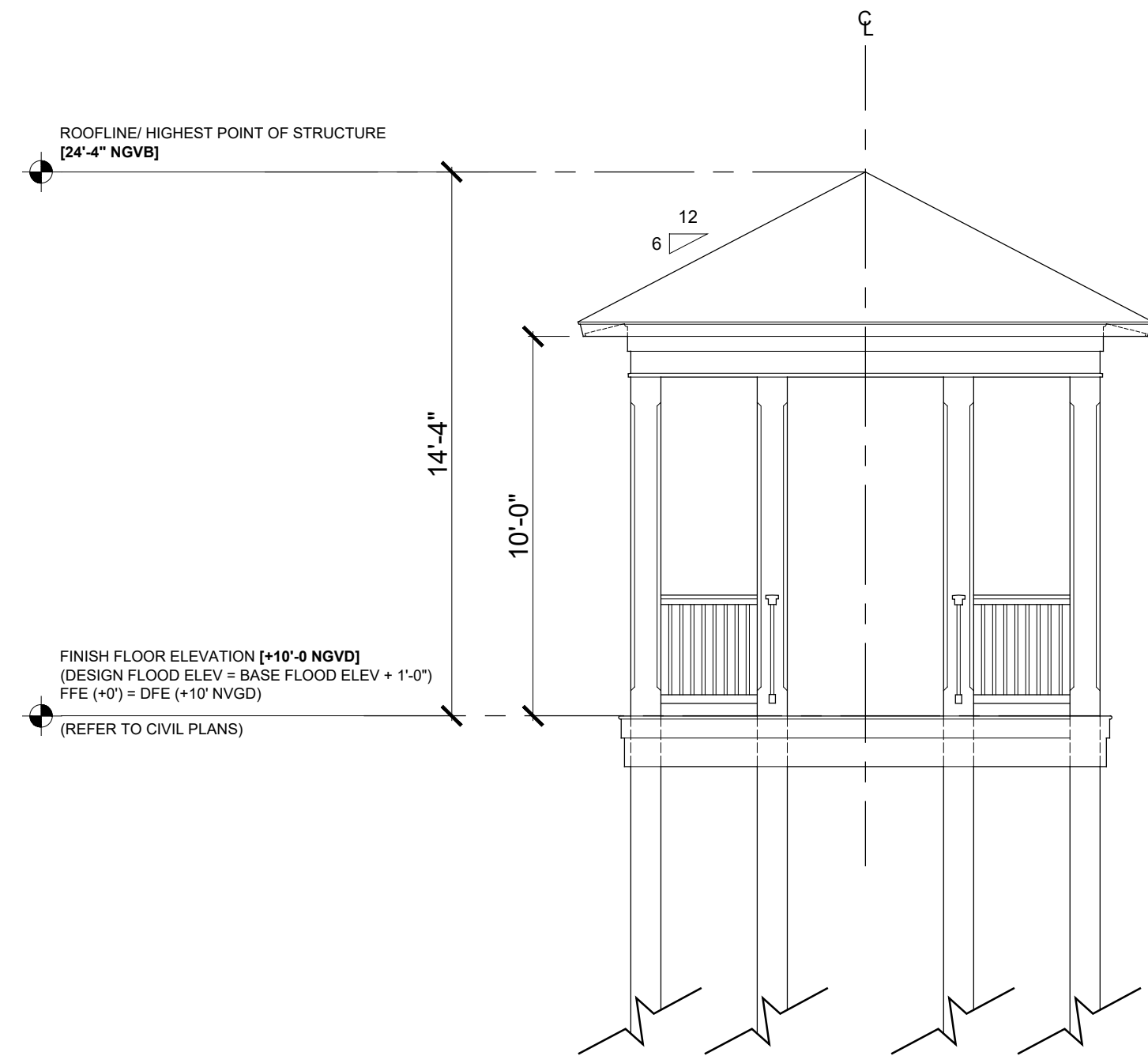
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SPA ELEVATIONS

NOTE:

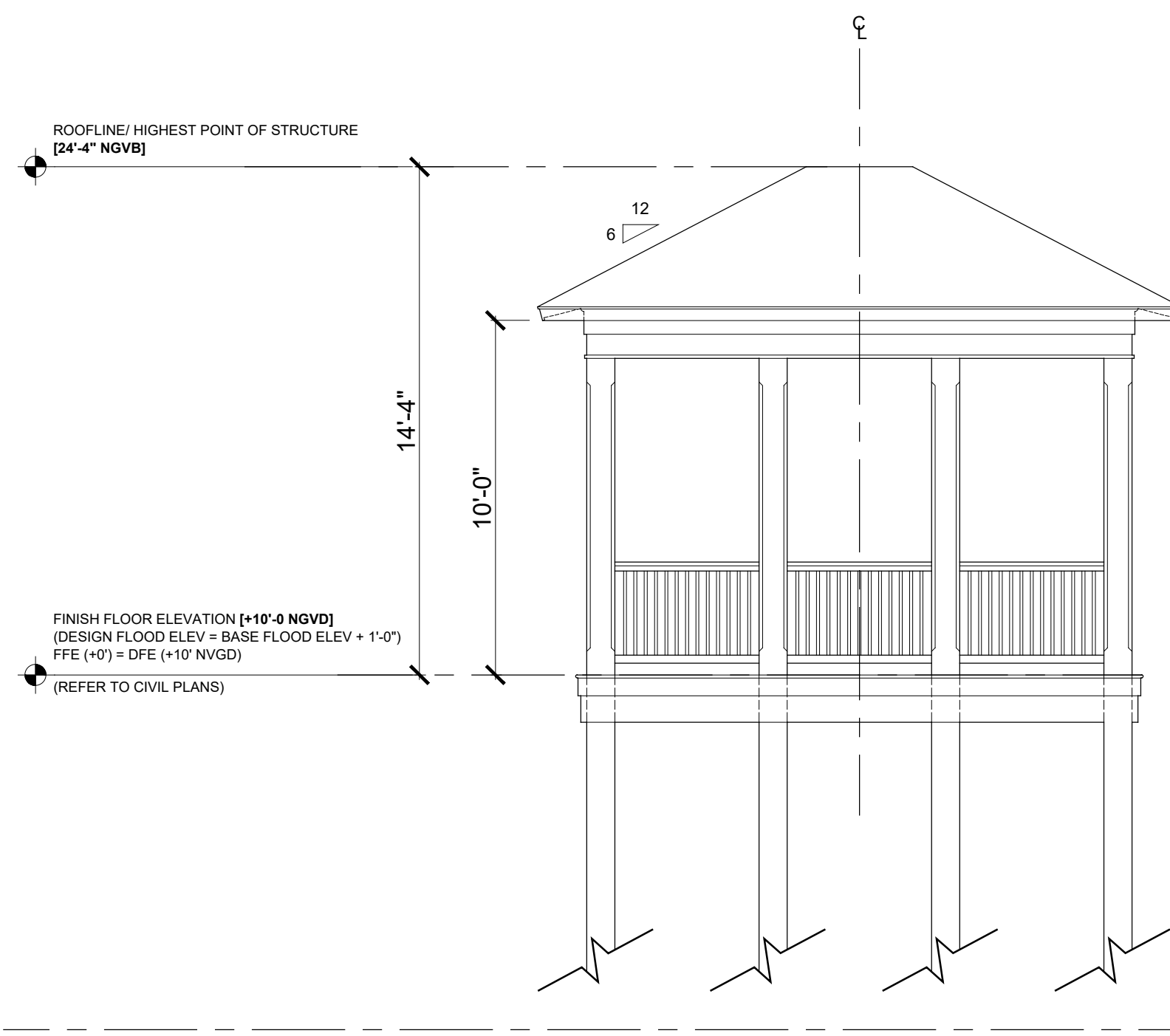
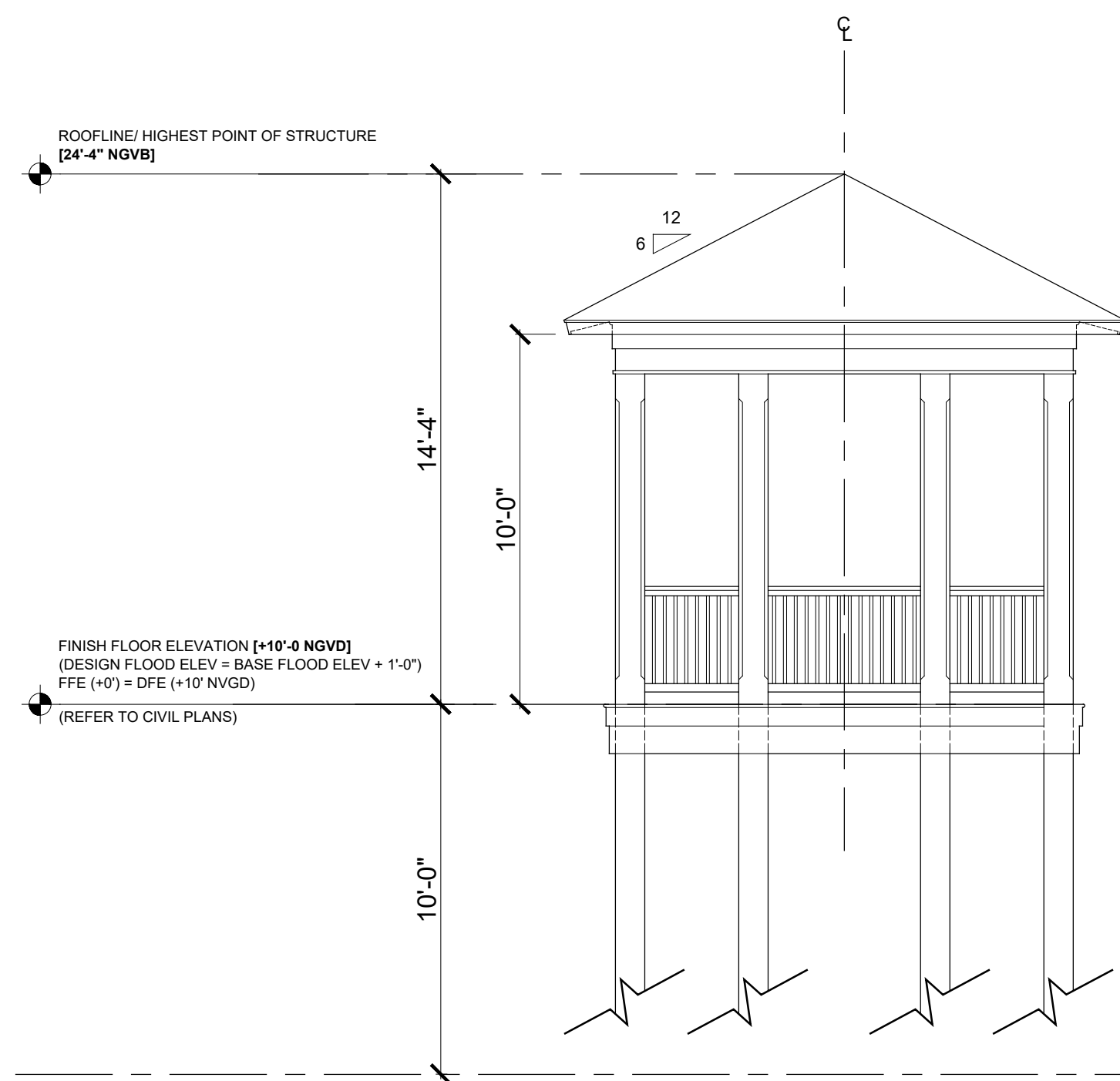
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04 FRONT ELEVATION
SCALE 1/4"=1'-0"

05 SIDE ELEVATION
SCALE 1/4"=1'-0"

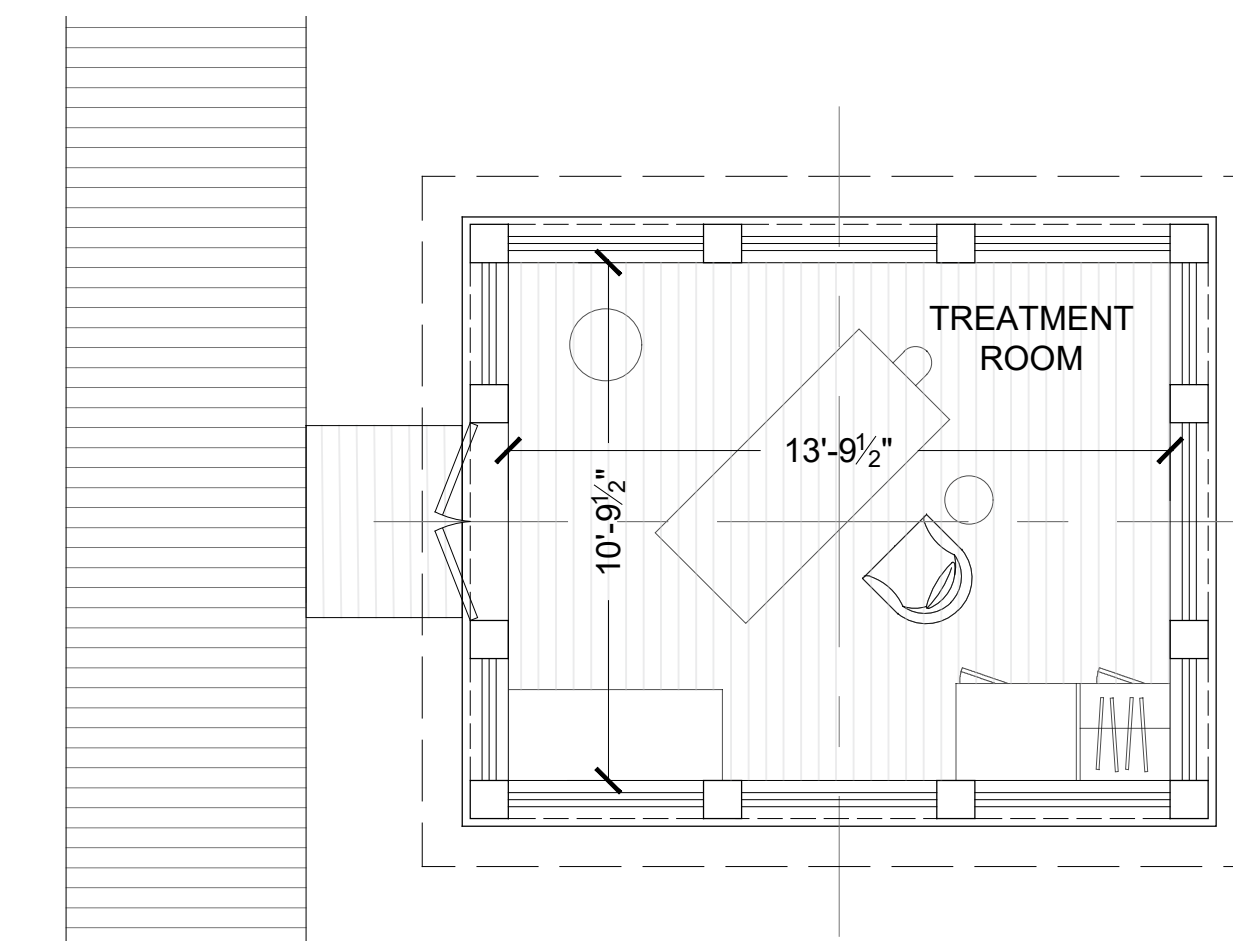


03 BACK ELEVATION
SCALE 1/4"=1'-0"

02 SIDE ELEVATION
SCALE 1/4"=1'-0"

PLAN NOTE:

*DESIGN FLOOD ELEVATION (DFE) NGVD = BASE FLOOR ELEVATION (BFE) +1'-0" = FINISHED FLOOR ELEVATION (FFE) NGVD



01 FLOOR PLAN
SCALE 1/4"=1'-0"

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VALHALLA RESORT

VALHALLA ISLAND,
CRAWL KEY
MONROE CO, FLORIDA

PROJECT NO. A10041
DRAWING TITLE

**SPA
(BUILDING TYPE "H")**

REVISIONS
NO.: DESCRIPTION: DATE:

SHEET NO.

A_H2.08

SPA OVER-WATER TREATMENT ROOMS

CLIENT
FLORIDIAN HOLDINGS, LLC:

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SITE PLAN SUBMISSION 03-26-2021

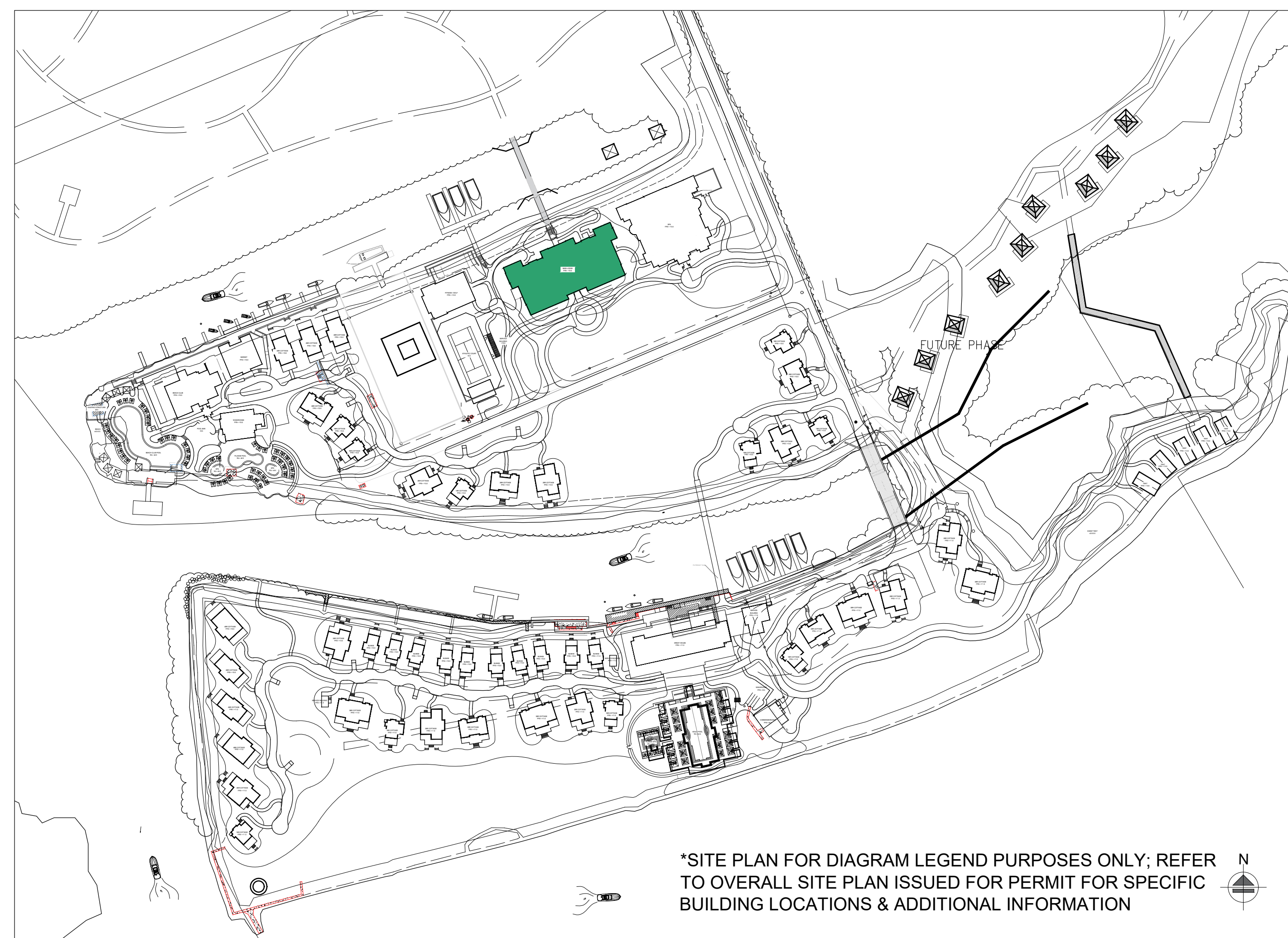
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LEGEND
 BUILDING TYPE "I" LOCATION

BUILDING "I" (LODGE)



*SITE PLAN FOR DIAGRAM LEGEND PURPOSES ONLY; REFER TO OVERALL SITE PLAN ISSUED FOR PERMIT FOR SPECIFIC BUILDING LOCATIONS & ADDITIONAL INFORMATION

01 SITE PLAN LEGEND
 SCALE 1/128"=1'-0"

BUILDING TYPE "I" SUMMARY

- QUANTITY: 1
- NUMBER OF ROOMS: 29
- NUMBER OF STORIES: 3 STORIES
- OVERALL BUILDING HEIGHT: **MAXIMUM HEIGHT = +54'-4" NGVD**
- TYPE OF CONSTRUCTION: **II B CONSTRUCTION, PROTECTED WITH AN AUTOMATIC SPRINKLER SYSTEM IN ACCORDANCE WITH 2020 FBC 903.2.8**

BUILDING AREA SUMMARY

- INTERIOR AREA: 21,363 SQFT
- EXTERIOR AREA: 6,124 SQFT
- TOTAL BUILDING FOOTPRINT: 30,091 SQFT (INCLUDING 1000 SQFT SERVICE YARD)

NOTE:
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 FOR FINISHED FLOOR & DESIGN FLOOD ELEVATION, SEE DRAWINGS BY CIVIL ENGINEER.

VALHALLA RESORT
 VALHALLA ISLAND,
 CRAWL KEY
 MONROE CO, FLORIDA

PROJECT NO. A10041
 DRAWING TITLE

**LODGE
 (BUILDING TYPE "I")**

REVISIONS		
NO.:	DESCRIPTION:	DATE:

SHEET NO.
A_I1.01
 LODGE SITE PLAN

NOTE:

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02 FRONT ELEVATION
SCALE 1/8"=1'-0"



01 BACK ELEVATION
SCALE 1/8"=1'-0"

NUNZIO MARC DESANTIS ARCHITECTS
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PHONE: +1.469.730.0370
EMAIL: INFO@NMDARCH.COM



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MEP ENGINEER
EXP ENGINEERING
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CIVIL ENGINEER
CHEN MOORE & ASSOCIATES
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MIAMI, FL 33145
PHONE: 786-497-1500

SITE PLAN SUBMISSION 03-26-2021

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VALHALLA RESORT
VALHALLA ISLAND,
CRAWL KEY
MONROE CO, FLORIDA

PROJECT NO. A10041
DRAWING TITLE

LODGE
(BUILDING TYPE "I")

REVISIONS
NO.: DESCRIPTION: DATE:

SHEET NO.

A_12.01

LODGE ELEVATIONS

NOT FOR CONSTRUCTION

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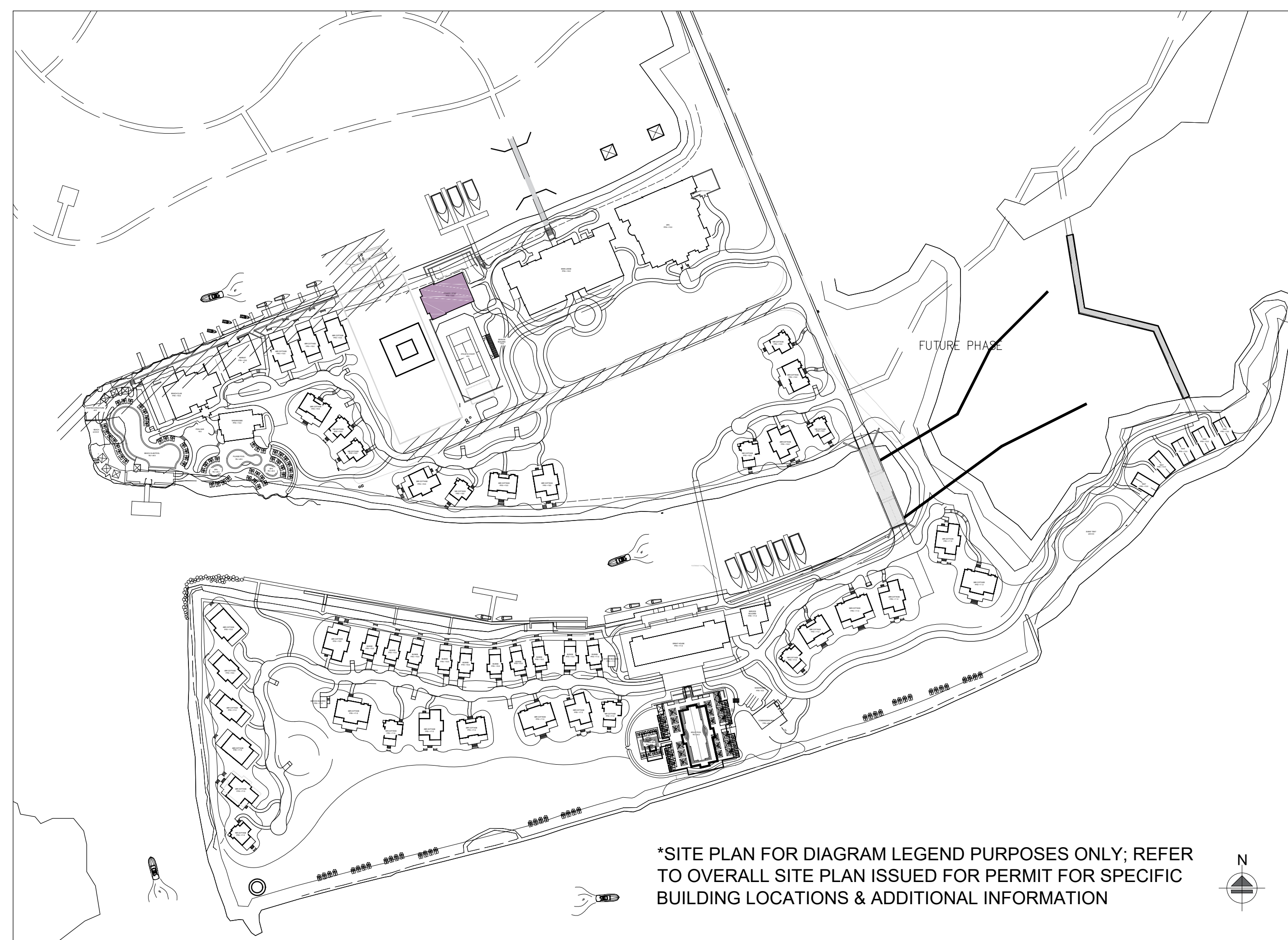
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SITE PLAN SUBMISSION 03-26-2021

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LEGEND
 BUILDING TYPE "J" LOCATION



01 SITE PLAN LEGEND
 SCALE 1/128"=1'-0"

BUILDING AREA SUMMARY

- INTERIOR AREA: 2,184 SQFT
- EXTERIOR AREA: 928 SQFT
- TOTAL BUILDING FOOTPRINT: 3,400 SQFT

BUILDING TYPE "J" SUMMARY

- QUANTITY: 1 (HANDICAP ACCESSIBLE W/ COMMUNICATION FEATURES)
- NUMBER OF STORIES: 1 STORY
- OVERALL BUILDING HEIGHT: **MAXIMUM HEIGHT = +33'-3" NGVD**
- TYPE OF CONSTRUCTION: **VB CONSTRUCTION, PROTECTED WITH AN AUTOMATIC SPRINKLER SYSTEM IN ACCORDANCE WITH 2020 FBC SECTION 903.2.8**

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VALHALLA RESORT
 VALHALLA ISLAND,
 CRAWL KEY
 MONROE CO, FLORIDA

PROJECT NO. A10041
 DRAWING TITLE

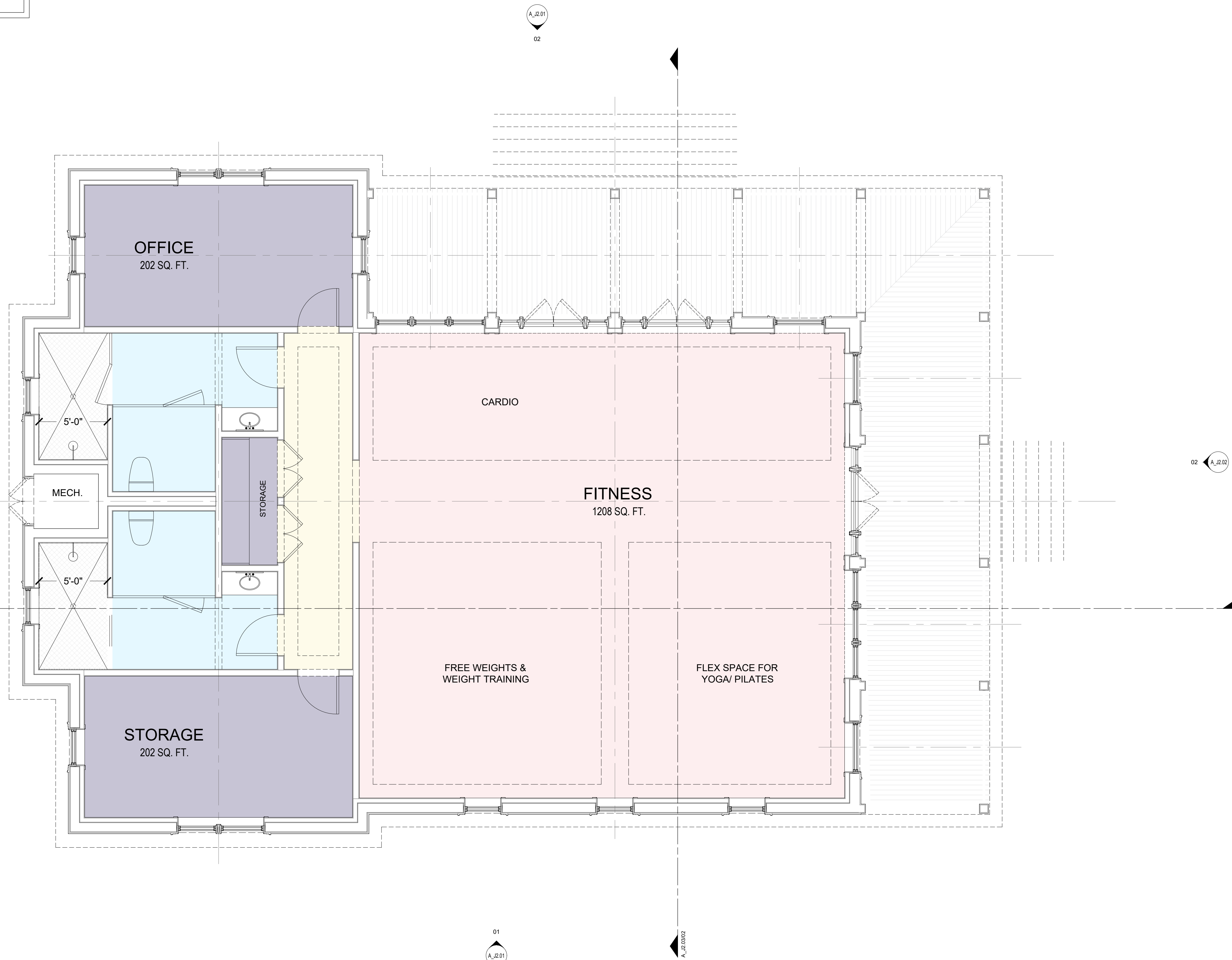
**FITNESS
 (BUILDING TYPE "J")**

REVISIONS		
NO.:	DESCRIPTION:	DATE:

SHEET NO.
A_J1.01

PLAN NOTE:

*DESIGN FLOOD ELEVATION (DFE) NGVD = BASE FLOOR ELEVATION (BFE) +1'-0" = FINISHED FLOOR ELEVATION (FFE) NGVD



01 FLOOR PLAN
SCALE 1/4"=1'-0"



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SITE PLAN SUBMISSION 03-26-2021

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VALHALLA RESORT
VALHALLA ISLAND,
CRAWL KEY
MONROE CO, FLORIDA

PROJECT NO. A10041
DRAWING TITLE

**FITNESS
(BUILDING TYPE "J")**

REVISIONS		
NO.:	DESCRIPTION:	DATE:

SHEET NO.

A_J1.02

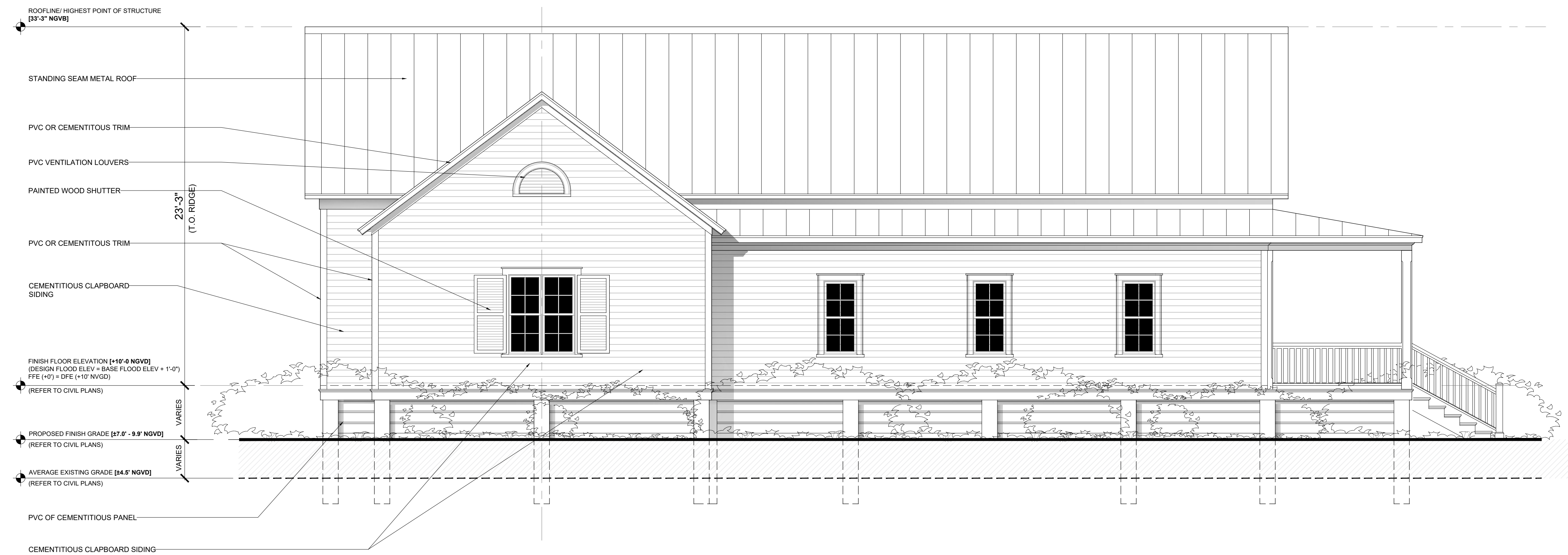
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SCALE 1/4"=1'-0"



01 SOUTH ELEVATION
SCALE 1/4"=1'-0"

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SITE PLAN SUBMISSION 03-26-2021

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VALHALLA RESORT
VALHALLA ISLAND,
CRAWL KEY
MONROE CO, FLORIDA

PROJECT NO. A10041
DRAWING TITLE

**FITNESS
(BUILDING TYPE "J")**

REVISIONS

NO.:	DESCRIPTION:	DATE:

SHEET NO.

A_J2.01

FITNESS ELEVATIONS

PLANNING COMMISSION AGENDA STATEMENT



Meeting Date: April 19, 2021
To: Honorable Mayor and City Councilmembers
From: Brian Shea, Planning Director
Through: George Garrett, City Manager

Agenda Item: Consideration Of A Request For An Annulment Of A Plat, For Floridian Holdings, LLC, Pursuant To Chapter 102, Article 10 Of The City Of Marathon Land Development Regulations (“The Code”) Entitled “Subdivision Of Land/Plats And Replats” For The Abandonment Of A Portion Of Ecstasy Subdivision West Of Banana Boulevard Excluding Block 3 Lot 4 And Adjacent Waterway And Part Of Vacated Ocean Drive, And The Abandonment Of The Amended Valhalla Island Plat; Located At And Around 56243 Ocean Drive; Which Is Legally Described As Block 1 Lots 1-22, Block 2 Lots 1-20, Lot A, And Waterway Number 1, Block 3 Lots 1-3 And Lots 5-19, Lot A, And Part Of Waterway Number 2, Block 4 Lots 1-4, Block 5 Lots 1-7, Lot A, And Lot B Of Ecstasy Subdivision, As Well As The Entirety Of Valhalla Island Amended Plat Of Ecstasy Subdivision Block A, Bay Bottom Adjacent To Tract A, And Previously Abandoned Right Of Way Of Ocean Drive, Section 35, Township 65, Range 33, Crawl Key, Marathon, Monroe County, Florida; Having Real Estate Numbers 00099750-000000, 00099760-000000, 00099760-000100, 00099760-000200, 00099760-000300, 00099760-000400, 00099760-000500, 00358250-000000, 00358260-000000, 00358270-000000, 00358280-000000, 00358290-000000, 00358300-000000, 00358310-000000, 00358320-000000, 00358330-000000, 00358340-000000, 00358350-000000, 00358360-000000, 00358370-000000, 00358380-000000, 00358390-000000, 00358400-000000, 00358410-000000, 00358420-000000, 00358430-000000, 00358440-000000, 00358450-000000, 00358460-000000, 00358470-000000, 00358480-000000, 00358490-000000, 00358500-000000, 00358510-000000, 00358520-000000, 00358530-000000, 00358540-000000, 00358550-000000, 00358560-000000, 00358570-000000, 00358580-000000, 00358590-000000, 00358600-000000, 00358610-000000, 00358620-000000, 00358630-000000, 00358640-000000, 00358650-000000, 00358660-000000, 00358661-000000, 00358710-000000, 00358720-000000, 00358730-000000, 00358740-000000, 00358750-000000, 00358760-000000, 00358770-000000, 00358780-000000, 00358790-000000, 00358800-000000, 00358810-000000, 00358820-000000, 00358830-000000, 00358840-000000, 00358850-000000, 00358851-000000, 00358860-000000, 00358870-000000, 00358880-000000, 00358890-000000, 00358910-000100, 00358990-000000, 00358990-000200, 00359000-000000, 00359601-000000, 00359602-000000, 00359602-000100, 00360220-000200, 00360220-000400, 00360220-000500, 00360220-000700, 00360220-000800, 00360220-000900, 00360220-001000, 00360220-001100, 00360220-001200, 00360220-004400, 00360220-004500, 00360220-004600, 00360220-004700, 00360220-004800, 00360220-004900, 00360220-005000, 00360220-005200, 00360220-005300, 00360220-005400, 00360220-005500, 00360220-005600, 00360220-005700, 00360220-005800, 00360220-005900, And 00358670-000000, Nearest Mile Marker 57.

Recommendation:

Based on review of the application, Staff is recommending **Approval** of the request to abandon a portion of the platted subdivision known as Ecstasy Subdivision and Amended Valhalla Island. The application is consistent with state and local law, and the applicants have submitted letters of no objection from the utility companies.

Conditions:

1. The applicants will convey an updated access easement (in a form acceptable to the City Attorney) to the owner of the outparcel.
2. The applicants will assume all infrastructure and utilities within the abandoned area (in a form acceptable to the City Attorney).
3. The applicants will convey an access and maintenance easement (in a form acceptable to the City Attorney) to the Monroe County Land Authority or their heirs/assigns.

Applicant: Floridian Holdings LLC

Agent: Bart Smith, Smith Hawks

Request: To abandon a portion of the plat of Ecstasy Subdivision and Amended Valhalla Island

Project Location: The subject property is located on and adjacent to US1 and Banana Boulevard.

Legal Description: (See Exhibit A for entire legal description)

**Figure 1
Location Map**



Background:

This is a request presented by Floridian Holdings LLC for the partial abandonment of the platted subdivisions which include City’s right-of-way known as Banana Boulevard. The applicant states they would like Council to abandon a portion of Crain Street as shown in the location graphic above and in the survey of the area to be abandoned. The applicant states they will grant access and maintenance easement to the City of Marathon, Monroe County Land Authority, and the owner of the out parcel for current and future use.

Municipalities derive their power to vacate municipally owned rights-of-way from Section 166.042, Florida Statutes that provides that former Section 167.09, Florida Statutes (1972) remains effective. Former Section 167.09, Florida Statutes provides that municipalities may "...discontinue any public park, public square, street, avenue, highway or any other way..."

Section 26-3 (1) & (2) of the City Code (Ordinance 2015-08, not codified as of this date), restricts the City’s authority to abandon rights-of-way, as provided by state law, by imposing the following conditions:

Section 26-3 General Provisions

(1) Approval of Abutting Property Owners

As part of the submittal process, documentation is required that there be no objections from abutting property owners. If such an objection occurs, then the Petitioner may further petition to be heard by the City Council in a review which would require a super majority vote if approved.

(2) Access to Water.

No right of way, road, Street, or public access way giving access to any publicly accessible waters in the City of Marathon, Florida, shall be closed, vacated, or abandoned unless:

- a. the City Council determines at a public hearing that the petitioner meets all the review criteria of this Article; and
- b. only in those instances wherein the Petitioner(s) offers to trade or give to the City comparable land or lands for a right of way, road, street, or public access way to give access to the same body of water, such access to be of such condition as not to work a hardship to the users thereof, the reasonableness of the distance and comparable land being left to the discretion of the City.

Analysis

Section 26-7 of the Code establishes criteria the City must consider when reviewing applications for right-of-way abandonment as follows:

Section 26-7 Review of Petition.

- (1) Review by Technical Review Committee - each petition shall be reviewed by the City and any governmental agency or City department deemed affected by the petitioner's

request. Upon receipt of receipt of a complete and sufficient petition, the City shall distribute the petition to appropriate reviewing departments and agencies. Within thirty (30) days, the City will hold a meeting of the Technical Review Committee (TRC) meeting pursuant to Chapter 101, Article 4 of the City's Land Development Regulations (LDRs). Within fifteen (15) days of the date of the TRC meeting, a report of objections, recommendations, or conditions shall be forwarded to the Petitioner for their review and action as may then be necessary. Within ninety (90) days of receipt of notification from the TRC the Petitioner shall comply with, agree, and commit in writing to the conditions, or disagree in writing to the conditions. Failure to respond to Notification from the TRC shall result in a recommendation to deny the petition to the City Council.

(2) Review Criteria - Upon review of the application, and prior to a public hearing before City Council, the chairperson of the TRC shall submit to City Council a written report recommending approval, approval with conditions or denial of the proposed right-of-way abandonment. This report shall take into consideration the following criteria:

- a. Whether the proposed abandonment will adversely affect the operations and functions of the City.

Staff Assessment: The abandonment of this portion of the plat, paper streets, paper canals, and ROW will not adversely affect the functions of the City. Ecstasy subdivision was platted in 1948 and Valhalla Island was platted in 1959. The Valhalla subdivision had some development in 1959, and the Ecstasy subdivision was developed with transient uses in 1982 and with the out parcel as a single-family residence in 1993. The City previously abandoned Ocean Drive, and an easement was created for the parcels to access Banana Boulevard. All the other paper streets, alleys, and canals had never been improved.

- b. Whether the proposed abandonment will adversely affect public access to and from the water;

Staff Assessment: Public access to water is not available from the paper streets and alleys. The existing Banana Boulevard ends at the plat for Valhalla Island, and therefore does not provide access to water.

- c. Whether the proposed abandonment will adversely affect pedestrian or vehicular traffic, or the commercial viability of business within 300 feet of the right-of-way to be abandoned;

Staff Assessment: With the removal of the road, the only vehicular access is by the applicant to their property and the existing access and easement to the out parcel. An access easement should be put in place to cover the additional area abandoned that is Banana Boulevard.

- d. Whether the proposed abandonment will adversely affect a public view corridor;

Staff Assessment: The Valhalla Island has been improved with a residential compound and does not currently affect a public view corridor.

- e. Whether the proposed abandonment will deprive other property owners of access to and from their property; and

Staff Assessment: The adjacent parcels are owned by the Monroe County Land Authority and are mangrove wetlands. An access and maintenance easement will allow the County to remove any invasive exotics from the property, should the need arise.

- f. Whether the proposed abandonment will interfere with utility services being provided, or unreasonably affect any utility easement.

Staff Assessment: The applicant submitted non-objection letter from AT&T, Comcast, FCAA, and FKEC without objection.

Provided that the owners comply with the conditions stated above the abandonment would not interfere with the utility services being provided currently or in the future.

The City Council shall consider and may impose modifications or conditions concerning, but not limited to the following:

1. Approve the application for the abandonment of public right-of-way;
2. Approve the application for the abandonment of public right-of-way with conditions;
or
3. Deny the application for the abandonment of public right-of-way.

Section 102.54 Vacation and Annulment of Plats Subdividing Land

Review and Approval. Review and a recommendation for the approval of a request for plat vacations shall be carried out in accordance with Fla. Stat. 177.01. The Council action shall be based upon findings that vacation and reversion to acreage will:

1. Conform to and be consistent with the Comprehensive Plan; and
2. Promote the public health, safety, and welfare.

Based on the above criteria, City Staff is therefore forwarding a recommendation of **approval** of this application.

Stakeholders

The Planning Department held a Technical Review Committee meeting to receive input from all affected City departments. The Public Works and Utilities Departments will convey utilities to the applicant who must then maintain them. The applicant has indicated they agree to provide to maintain the easement for and improve the existing utilities.

Consistency With Adopted Plans And Policies

In addition to the above discussion in the Analysis section, this application complies with the requirements of Chapter 26 of the City of Marathon City Code and with the requirements of the City of Marathon Comprehensive Plan. This application specifically complies with comprehensive plan policies discouraging the abandonment of rights-of-way that provide public access to water bodies.

Recommendation:

Based on review of the application, Staff is recommending **Approval** of the request to abandon a portion of Ecstasy and Amended Valhalla Island subdivisions and ROW. The application is consistent with state and local law, and the applicants have submitted letters of no objection from the utility companies.

Conditions:

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EXHIBIT A

SKETCH & DESCRIPTION

A PARCEL OF UPLAND, DISTURBED UPLAND AND DISTURBED WETLAND LOCATED IN A PART OF BLOCKS 1 & 2 AS SHOWN ON THE PLAT ENTITLED "ECSTASY SECTION 'A'" PLAT BOOK 2, PAGE 92
CRAWL KEY NO. 5, MONROE COUNTY, FLORIDA

LEGAL DESCRIPTION:

A parcel of upland, disturbed upland and disturbed wetland located in a part of Blocks 1 and 2, as shown on ECSTASY SECTION 'A', a subdivision as recorded in Plat Book 2, Page 92, of the Public Records of Monroe County, Florida, and being more particularly described by metes and bounds as follows:

COMMENCING at the intersection of the southeasterly right-of-way line of U.S. Highway No. 1 with the centerline of Banana Boulevard, thence S67°38'00"W for a distance of 50.16 feet to the Northeast corner of said Block 1, and the POINT OF BEGINNING;
thence S67°38'00"W for a distance of 244.78 feet; thence S35°06'29"E for a distance of 34.04 feet;
thence S13°50'43"W for a distance of 26.28 feet; thence S25°19'12"W for a distance of 22.15 feet;
thence S68°30'41"W for a distance of 58.68 feet; thence S64°32'23"W for a distance of 76.15 feet;
thence S07°09'43"E for a distance of 32.13 feet; thence S72°51'15"W for a distance of 42.42 feet;
thence N76°49'00"W for a distance of 43.18 feet; thence N01°33'28"E for a distance of 43.71 feet;
thence N28°43'39"W for a distance of 16.44 feet; thence S65°16'08"W for a distance of 14.52 feet;
thence S29°42'51"W for a distance of 23.51 feet; thence S19°58'59"W for a distance of 27.28 feet;
thence S23°44'40"W for a distance of 54.31 feet; thence S21°49'59"E for a distance of 19.65 feet;
thence N63°51'15"W for a distance of 50.97 feet; thence N52°25'41"W for a distance of 11.11 feet;
thence N18°52'11"W for a distance of 30.70 feet; thence N62°58'55"W for a distance of 42.61 feet;
thence S67°38'00"W for a distance of 86.02 feet; thence S64°49'45"E for a distance of 60.48 feet;
thence S60°13'24"E for a distance of 39.74 feet; thence S48°31'25"E for a distance of 12.21 feet;
thence S05°06'02"E for a distance of 67.62 feet; thence S38°25'36"E for a distance of 28.94 feet;
thence S63°24'40"E for a distance of 28.89 feet; thence N61°08'48"E for a distance of 31.49 feet;
thence S81°38'36"E for a distance of 26.06 feet; thence S65°03'04"E for a distance of 34.38 feet;
thence S87°13'41"E for a distance of 25.76 feet; thence S76°25'05"E for a distance of 59.92 feet;
thence S32°02'32"W for a distance of 43.77 feet; thence S21°33'14"W for a distance of 49.77 feet;
thence S33°17'05"E for a distance of 62.34 feet; thence S80°47'10"E for a distance of 63.69 feet;
thence N57°32'19"E for a distance of 59.86 feet; thence N22°20'38"E for a distance of 51.44 feet;
thence N62°47'08"E for a distance of 50.00 feet; thence S80°30'57"E for a distance of 85.55 feet;
thence N38°22'15"E for a distance of 84.58 feet; thence N47°03'58"E for a distance of 54.46 feet;
thence N30°01'13"E for a distance of 56.19 feet; thence N28°23'49"E for a distance of 60.38 feet;
thence N04°16'51"E for a distance of 37.71 feet; thence N24°51'45"E for a distance of 40.98 feet;
thence N55°25'44"E for a distance of 23.31 feet; thence N00°02'44"E for a distance of 36.53 feet;
thence N22°00'00"W for a distance of 173.68 feet to a point of curve, said curve having a radius of 25.00 feet and a delta angle of 90°22'00", with a chord bearing of N67°11'00" and chord distance of 35.47 feet;
thence along said curve in a northwesterly direction for a distance of 39.43 feet back to the Point of Beginning, Containing 209,597 sq. ft., more or less (4.81 ac.).



DENOTES NEWLY DESCRIBED LEGAL

SURVEYOR'S NOTES:

1. THE PURPOSE OF THIS SKETCH AND DESCRIPTION IS DEFINE AND DESCRIBE A PARCEL OF UPLAND, DISTURBED UPLAND AND DISTURBED WETLAND, AS LOCATED BY JULIE CHEON OF ENVIRONMENTAL CONSULTING ON 10/08/20, ALL WITHIN IN A PART OF BLOCKS 1 & 2, ECSTASY SECTION 'A', A SUBDIVISION AS RECORDED IN PLAT BOOK 2, PAGE 92, OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA.
2. THIS SKETCH AND DESCRIPTION OR THE COPIES THEREOF ARE NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
3. ADDITIONS OR DELETIONS TO SKETCH AND DESCRIPTION BY ANYONE OTHER THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES.
4. BEARINGS SHOWN HEREBY ARE PER THE PLAT OF ECSTASY SECTION 'A', RECORDED IN PLAT BOOK 2, PAGE 92 OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA WITH THE BEARING OF S67°38'00"W ON THE SOUTHEAST RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO. 1.
5. ALL ANGLES ARE NOT 90 DEGREES.
6. THIS IS NOT A BOUNDARY SURVEY.
7. PREPARED FOR FLORIDIAN HOLDINGS, LLC
8. NOT WHOLE OR COMPLETE WITHOUT PAGE 1 OF 2.

ABBREVIATIONS: (C) = CALCULATED
(CL) = CENTERLINE
(P) = PLAT

SCALE:	1"=100'
DATE:	03/30/21
BY:	JM
CHECKED BY:	REK
INVOICE #:	21033101

REECE & ASSOCIATES
PROFESSIONAL SURVEYOR AND MAPPER, LB. 7046
127 INDUSTRIAL ROAD, BIG PINE KEY, FL 33003
OFFICE (305) 872-1348
EMAIL: INFO@REECESURVEYING.COM

SKETCH & DESCRIPTION

A PARCEL OF UPLAND, DISTURBED UPLAND AND DISTURBED WETLAND LOCATED IN A PART OF BLOCKS 1 & 2 AS SHOWN ON THE PLAT ENTITLED "ECSTASY SECTION 'A'" PLAT BOOK 2, PAGE 92
CRAWL KEY NO. 5, MONROE COUNTY, FLORIDA



NORTH
ASSUMED FROM PLAT
SCALE: 1" = 100'

NOT WHOLE OR COMPLETE WITHOUT PAGE 2 OF 2.

LINE NO.	BEARING	DISTANCE
L1	S67°38'00"W	244.78
L2	S35°06'29"E	34.04
L3	S13°50'43"W	26.28
L4	S25°19'12"W	22.15
L5	S68°30'41"W	58.68
L6	S64°32'23"W	76.15
L7	S07°09'43"E	32.13
L8	S72°51'15"W	42.42
L9	N76°49'00"W	43.18
L10	N01°33'28"E	43.71
L11	N28°43'39"W	16.44
L12	S65°16'08"W	14.52
L13	S29°42'51"W	23.51
L14	S19°58'59"W	27.28
L15	S23°44'40"W	54.31
L16	S21°49'59"E	19.65
L17	N63°51'15"W	50.97
L18	N52°25'41"W	11.11
L19	N18°52'11"W	30.70
L20	N62°58'55"W	42.61
L21	S67°38'00"W	86.02
L22	S64°48'45"E	60.48
L23	S60°13'24"E	39.74
L24	S48°31'25"E	12.21
L25	S05°06'02"E	67.62
L26	S38°25'36"E	28.94
L27	S63°24'40"E	28.89
L28	N61°08'48"E	31.49
L29	S81°38'36"E	26.06
L30	S65°03'04"E	34.38
L31	S87°13'41"E	25.76
L32	S76°25'05"E	59.92
L33	S32°02'32"W	43.77
L34	S21°53'14"W	49.77
L35	S33°17'05"E	62.34
L36	S80°47'10"E	63.69
L37	N57°32'19"E	59.86
L38	N22°20'38"E	51.44
L39	N62°47'08"E	50.00
L40	S80°30'57"E	85.55
L41	N38°22'15"E	84.58
L42	N47°03'58"E	54.46
L43	N30°01'13"E	56.19
L44	N28°23'49"E	60.38
L45	N04°16'51"E	37.71
L46	N34°51'45"E	40.98
L47	N52°25'44"E	33.31
L48	N00°02'44"E	36.53
L49	N22°00'00"W	173.68

JURISDICTIONAL CURVE TABLE			
CURVE	LENGTH	RADIUS	DELTA
C1	39.43	25.00	90°22'00"
CHORD BEARING	N67°11'00"W		35.47

SCALE: 1"=100'
DATE: 03/30/21
REVISION: -1/-
SHEET: 1 OF 2
DRAWN BY: JH
CHECKED BY: RER
INVOICE #: 21033101

THE PURPOSE OF THIS SKETCH IS TO ILLUSTRATE THE LEGAL DESCRIPTION HEREAFTER AUTHORED BY THE UNDERSIGNED. IT IS NOT A SURVEY OF THE LANDS BEING SURVEYED. FIELDWORK (SEE PAGE 32-17) PERFORMED, CODE AND CLOSURE (SEE PAGE 42) OBTAINED.

NO CLAIM IS MADE BY THE UNDERSIGNED AS TO THE EXISTENCE OR NON-EXISTENCE OF ANY RIGHTS OR INTERESTS IN THE LANDS SURVEYED.

[Signature]
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